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MONTANA LEGISLATIVE HISTORY

Chapter 630 19 93

Bill H 13 S _____ Original bill & history ✓ C

H. Committee on Select Committee Work. Comp.

Hearing Date(s) Jan 18 ____C

Note: No minutes were located re the Mar 11 committee report.

_____ ____C

_____ ____C

_____ ____C

Date Out _____ ____C

S. Committee on Select Committee Work. Comp.

Hearing Date(s) Apr 01 ✓ C

Apr 06 ✓ C

_____ ____C

_____ ____C

Apr 07 ✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

House Labor & Employment Relations

Mar 16 ✓ C

Mar 18 ✓ C

Mar 19 ✓ C

_____

Note: A Free Conference Committee was created. Its minutes were not recorded.

4/28	SIGNED BY GOVERNOR CHAPTER NUMBER 547 EFFECTIVE DATE: 04/28/93		

HB 12 INTRODUCED BY BARDANOUVE

APPROPRIATE MONEY TO DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR LOANS UNDER THE WATER DEVELOPMENT PROGRAM

BY REQUEST OF DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

12/23	INTRODUCED		
12/30	REFERRED TO APPROPRIATIONS		
1/04	FIRST READING		
2/10	HEARING		
2/15	HEARING		
3/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/23	2ND READING PASSED	89	11
3/24	3RD READING PASSED	84	16
	TRANSMITTED TO SENATE		
3/26	FIRST READING		
3/26	REFERRED TO FINANCE & CLAIMS		
4/02	HEARING		
4/05	COMMITTEE REPORT—BILL CONCURRED		
4/06	2ND READING CONCURRED	50	0
4/07	3RD READING CONCURRED	48	1
	RETURNED TO HOUSE		
4/19	SIGNED BY SPEAKER		
4/20	SIGNED BY PRESIDENT		
4/21	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR CHAPTER NUMBER 497 EFFECTIVE DATE: 04/24/93		

HB 13 INTRODUCED BY BENEDICT, ET AL.

GENERALLY REVISE WORKERS' COMPENSATION LAW; REVISE STATE FUND'S BUDGET/FUNDING PROCEDURE

BY REQUEST OF JOINT SELECT COMMITTEE ON WORKERS' COMPENSATION

12/23	INTRODUCED		
12/30	REFERRED TO HOUSE SELECT COMMITTEE ON WORKERS' COMPENSATION		
12/31	FISCAL NOTE REQUESTED		
1/04	FIRST READING		
1/08	FISCAL NOTE RECEIVED		
1/09	FISCAL NOTE PRINTED		
1/18	HEARING		
3/11	COMMITTEE REPORT—BILL PASSED AS AMENDED AND REREFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/16	HEARING		
3/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/23	REVISED FISCAL NOTE REQUESTED		
3/25	REVISED FISCAL NOTE RECEIVED		
3/25	REVISED FISCAL NOTE PRINTED		
3/25	2ND READING PASSED AS AMENDED	98	2
3/25	3RD READING PASSED	96	2
	TRANSMITTED TO SENATE		
3/26	FIRST READING		

3/26	REFERRED TO SENATE SELECT COMMITTEE ON WORKERS' COMPENSATION		
4/01	HEARING		
4/08	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/12	2ND READING CONCURRED	47	1
4/13	3RD READING CONCURRED	48	1
	RETURNED TO HOUSE WITH AMENDMENTS		
4/15	2ND READING AMENDMENTS NOT CONCURRED	54	46
4/15	FREE CONFERENCE COMMITTEE APPOINTED		
4/22	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/22	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	93	7
4/22	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	92	6
	SENATE		
4/20	FREE CONFERENCE COMMITTEE APPOINTED		
4/22	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/22	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	45	3
4/22	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	45	3
4/28	SIGNED BY SPEAKER		
4/28	SIGNED BY PRESIDENT		
4/29	TRANSMITTED TO GOVERNOR		
5/11	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 630		
	EFFECTIVE DATE: 05/11/93—SECTIONS 1, 9, & 14-18		
	EFFECTIVE DATE: 07/01/93—SECTIONS 2-8 & 10-13		

HB 14 INTRODUCED BY TOOLE

EXTEND LONGEVITY PAYMENTS TO ALL SHERIFF'S DEPARTMENT EMPLOYEES

12/23	INTRODUCED
12/30	REFERRED TO LOCAL GOVERNMENT
12/31	FISCAL NOTE REQUESTED
1/04	FIRST READING
1/05	HEARING
1/05	TABLED IN COMMITTEE
1/08	FISCAL NOTE RECEIVED
1/08	FISCAL NOTE PRINTED

HB 15 INTRODUCED BY PAVLOVICH

AUTHORIZE MILITARY AFFILIATE RADIO SYSTEM (MARS) LICENSE PLATES

12/23	INTRODUCED
12/30	REFERRED TO HIGHWAYS & TRANSPORTATION
12/31	FISCAL NOTE REQUESTED
1/04	FIRST READING
1/11	FISCAL NOTE RECEIVED
2/12	TABLED IN COMMITTEE

HB 16 INTRODUCED BY PAVLOVICH

ESTABLISH VETERANS' HOME MAINTENANCE AND IMPROVEMENT ACCOUNT FROM CIGARETTE TAX

12/23	INTRODUCED
12/30	REFERRED TO APPROPRIATIONS
12/31	FISCAL NOTE REQUESTED
1/04	FIRST READING

HOUSE BILL NO. 13

INTRODUCED BY BENEDICT, DRISCOLL,
DOLEZAL, H. HANSON, DEVLIN, FRITZ
BY REQUEST OF THE SELECT COMMITTEE ON
WORKERS' COMPENSATION

IN THE HOUSE

DECEMBER 23, 1992	INTRODUCED AND REFERRED TO SELECT COMMITTEE ON WORKERS' COMPENSATION.
JANUARY 4, 1993	FIRST READING.
JANUARY 16, 1993	SPONSORS ADDED.
MARCH 11, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
	ON MOTION, REREFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
MARCH 12, 1993	PRINTING REPORT.
MARCH 20, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 23, 1993	PRINTING REPORT.
MARCH 25, 1993	SECOND READING, DO PASS AS AMENDED.
	RULES SUSPENDED AND BILL PLACED ON THIRD READING THIS LEGISLATIVE DAY.
	THIRD READING, PASSED. AYES, 96; NOES, 2.
	TRANSMITTED TO SENATE.
MARCH 26, 1993	ENGROSSING REPORT.

IN THE SENATE

MARCH 26, 1993	INTRODUCED AND REFERRED TO SELECT COMMITTEE ON WORKERS' COMPENSATION.
	FIRST READING.
APRIL 8, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT

ADOPTED.

APRIL 12, 1993 SECOND READING, CONCURRED IN.

APRIL 13, 1993 THIRD READING, CONCURRED IN.
AYES, 48; NOES, 1.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1993 SECOND READING, AMENDMENTS NOT CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1993 ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 22, 1993 SECOND READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 22, 1993 FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 23, 1993 SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 13

INTRODUCED BY BENEDICT

BY REQUEST OF THE SELECT COMMITTEE ON

WORKERS' COMPENSATION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING WORKERS' COMPENSATION LAW; PLACING THE STATE FUND UNDER THE AUTHORITY OF THE INSURANCE COMMISSIONER; REVISING THE STATE FUND'S BUDGET AND FUNDING PROCEDURES; EXEMPTING THE STATE FUND FROM THE PROVISIONS OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 2-4-102, 17-7-502, 33-1-401, 39-71-2314, 39-71-2316, 39-71-2321, 39-71-2323, AND 39-71-2352, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-4-102, MCA, is amended to read:

"2-4-102. Definitions. For purposes of this chapter, the following definitions apply:

(1) "Administrative code committee" or "committee" means the committee provided for in Title 5, chapter 14.

(2) (a) "Agency" means an agency, as defined in 2-3-102, of the state government, except that the provisions of this chapter do not apply to the following:

(i) the state board of pardons, except that the board is subject to the requirements of 2-4-103, 2-4-201, 2-4-202, and 2-4-306 and its rules must be published in the Administrative Rules of Montana and the Montana Administrative Register;

(ii) the supervision and administration of a penal institution with regard to the institutional supervision, custody, control, care, or treatment of youths or prisoners;

(iii) the board of regents and the Montana university system;

(iv) the financing, construction, and maintenance of public works; or

(v) the state compensation mutual insurance fund and its board of directors.

(b) Agency does not include a school district, unit of local government, or any other political subdivision of the state.

(3) "ARM" means the Administrative Rules of Montana.

(4) "Contested case" means a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes but is not restricted to ratemaking, price fixing, and licensing.

(5) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or other form of permission required by law but does not

include a license required solely for revenue purposes.

(6) "Licensing" includes any agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of a license.

(7) "Party" means a person named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, but nothing herein in this chapter may be construed to prevent an agency from admitting any person as a party for limited purposes.

(8) "Person" means an individual, partnership, corporation, association, governmental subdivision, agency, or public organization of any character.

(9) "Register" means the Montana Administrative Register.

(10) "Rule" means each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule but does not include:

(a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

(b) formal opinions of the attorney general and

declaratory rulings issued pursuant to 2-4-501;

(c) rules relating to the use of public works, facilities, streets, and highways when the substance of the rules is indicated to the public by means of signs or signals;

(d) seasonal rules adopted annually or biennially relating to hunting, fishing, and trapping when there is a statutory requirement for the publication of the rules and rules adopted annually or biennially relating to the seasonal recreational use of lands and waters owned or controlled by the state when the substance of the rules is indicated to the public by means of signs or signals;

(e) rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide budgeting and accounting system;

(f) uniform rules adopted pursuant to interstate compact, except that the rules must be filed in accordance with 2-4-306 and must be published in the Administrative Rules of Montana.

(11) "Substantive rules" are either:

(a) legislative rules, which if adopted in accordance with this chapter and under expressly delegated authority to promulgate rules to implement a statute have the force of law and when not so adopted are invalid; or

(b) adjective or interpretive rules, which may be

adopted in accordance with this chapter and under express or implied authority to codify an interpretation of a statute. The interpretation lacks the force of law."

Section 2. Section 33-1-401, MCA, is amended to read:

"33-1-401. Examination of insurers and state compensation mutual insurance fund. (1) The commissioner shall examine the affairs, transactions, accounts, records, and assets of each authorized insurer and the state compensation mutual insurance fund as often as ~~he deems~~ the commissioner considers advisable. ~~He~~ The commissioner shall ~~so~~ examine each domestic insurer not less frequently than every 3 years. The commissioner shall examine the state fund on a yearly basis beginning no sooner than October 1 following the end of the fiscal year. Examination of an alien insurer may be limited to its insurance transactions and affairs in the United States. Examination of a reciprocal insurer may also include examination of its attorney-in-fact insofar as the transactions of the attorney-in-fact relate to the insurer.

(2) The commissioner shall in like manner examine each insurer applying for an initial certificate of authority to do business in this state.

(3) In lieu of making ~~his own~~ an examination, the commissioner may~~, in his discretion,~~ accept a full report of the last recent examination of a foreign or alien insurer,

certified to by the insurance supervisory official of another state, territory, commonwealth, or district of the United States.

(4) If, after examining the state compensation mutual insurance fund pursuant to subsection (1), the commissioner determines that the fund, if it were a private insurer, would be subject to the provisions of Title 33, chapter 2, part 13, the commissioner shall report those findings to the governor and the legislature."

Section 3. Section 39-71-2314, MCA, is amended to read:

"39-71-2314. State fund -- assigned risk plan. ~~(1)~~ If an assigned risk plan is established and administered pursuant to 39-71-431, the state fund is subject to the premium tax liability for insurers as provided in 33-2-705 based on earned premium and paid on revenue from the previous fiscal year.

~~(2) The state fund is subject to laws that generally apply to state agencies, including but not limited to Title 2, chapters 2, 3, 4 (except as provided in 39-71-2316), and 6, and Title 5, chapter 13. The state fund is not exempt from a law that applies to state agencies unless that law specifically exempts the state fund by name and clearly states that it is exempt from that law.~~"

Section 4. Section 39-71-2316, MCA, is amended to read:

"39-71-2316. Powers of the state fund ----rulemaking.

For the purposes of carrying out its functions, the state fund may:

(1) insure any employer for workers' compensation and occupational disease liability as the coverage is required by the laws of this state ~~and, in connection with the coverage, provide employers' liability insurance~~. The state fund may charge a minimum yearly premium to cover its administrative costs for coverage of a small employer.

(2) sue and be sued;

~~(3) adopt, amend, and repeal rules relating to the conduct of its business;~~

~~(4)~~(3) except as provided in section 21, Chapter 4, Special Laws of May 1990, enter into contracts relating to the administration of the state fund, including claims management, servicing, and payment;

~~(5)~~(4) collect and disburse money received;

~~(6)~~(5) adopt classifications and charge premiums for the classifications so that the state fund will be neither more nor less than self-supporting; ~~Premium rates for classifications may only be adopted and changed using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts 2 through 4. After such rules have been adopted, the state fund need not follow the rulemaking provisions of Title 2, chapter 4, when changing classifications and premium rates. The contested case rights and provisions of Title 2, chapter 4, do not apply to an employer's classification or premium rate. The state fund must belong to the national council on compensation insurance and shall use the classifications of employment adopted by the national council and corresponding rates as a basis for setting its own rates.~~

~~(7)~~(6) pay the amounts determined due under a policy of insurance issued by the state fund;

~~(8)~~(7) hire personnel;

~~(9)~~(8) declare dividends if there is an excess of assets over liabilities. However, dividends may not be paid until adequate actuarially determined reserves are set aside. If those reserves have been set aside, money that can be declared as a dividend must be transferred to the account created by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, and used for the purposes of that account. After all claims funded by that account have been paid, dividends may be declared and paid to insureds.

~~(10)~~(9) perform all functions and exercise all powers of a ~~domestic mutual insurer~~ private insurance carrier that are necessary, appropriate, or convenient for the administration of the state fund."

Section 5. Section 39-71-2323, MCA, is amended to read:

"39-71-2323. Surplus in state fund -- payment of

dividends. Subject to the provisions of 39-71-2316{9}(8), if at the end of any fiscal year there exists in the state fund account created by 39-71-2321 for claims for injuries resulting from accidents that occur on or after July 1, 1990, an excess of assets over liabilities, including necessary reserves and a reasonable surplus, and if the excess may be refunded safely, then the state fund may declare a dividend. The rules of the state fund must prescribe the manner of payment to those employers who have paid premiums into the state fund in excess of liabilities chargeable to them in the fund for that year. In determining the amount or proportion of the balance to which the employer is entitled as dividends, the state fund shall give consideration to the prior paid premiums and accident experience of each individual employer during the dividend year."

Section 6. Section 39-71-2352, MCA, is amended to read:

"**39-71-2352. Separate payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990, and on or after July 1, 1990 -- spending limit.** (1) Premiums paid to the state fund based upon wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Except as provided in 39-71-2316{9}(8) and 39-71-2354, premiums paid

to the state fund based upon wages payable on or after July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occur on or after July 1, 1990.

(2) The state fund shall:

(a) determine the cost of administering and paying claims for injuries resulting from accidents that occurred before July 1, 1990, and separately determine the cost of administering and paying claims for injuries resulting from accidents that occur on or after July 1, 1990;

(b) keep adequate and separate accounts of the costs determined under subsection (2)(a); and

(c) fund administrative expenses and benefit payments for claims for injuries resulting from accidents that occurred before July 1, 1990, and claims for injuries resulting from accidents that occur on or after July 1, 1990, separately from the sources provided by law.

(3) The state fund may not spend more than $3 million a year to administer claims for injuries resulting from accidents that occurred before July 1, 1990."

NEW SECTION. **Section 7.** **Rate setting.** The board has the authority to establish the rates to be charged by the state fund for insurance. The board shall engage the services of an independent actuary who is a member in good standing with the American academy of actuaries to develop

and recommend actuarially sound rates. Rates must be set at amounts sufficient, when invested, to carry all claims to maturity, to meet the reasonable expenses of conducting the business of the state fund, and to amass and maintain, by July 1, 2001, a reasonable surplus in accordance with insurance industry standards.

NEW SECTION. **Section 8.** **Authority of insurance commissioner with respect to state fund.** (1) The insurance commissioner shall review rates established by the board to determine if the rates or any rate changes are excessive, inadequate, or unfairly discriminatory. The insurance commissioner has the same authority over the state fund's rate setting procedures as the insurance commissioner has over the rate setting procedures of a private insurer.

(2) The state fund is subject to the provisions of Title 33, chapter 2, except for 33-2-515 and Title 33, chapter 2, parts 7, 8, and 13.

NEW SECTION. **Section 9.** **Agency law -- submission of budget -- annual report.** (1) The state fund is subject to state laws applying to state agencies, except that it is exempt from the provisions of The Legislative Finance Act in Title 5, chapter 12.

(2) The executive director shall annually submit to the board for its approval an estimated budget of the entire expense of administering the state fund for the succeeding

fiscal year, with due regard to the business interests and contract obligations of the state fund. The budget approved by the board may not exceed 15% of the annual employer premiums. A copy of the approved budget must be delivered to the governor and the legislature.

(3) The board shall submit an annual reserve report prepared by the state fund's actuary to the governor and to the legislature as provided in 5-11-210, indicating the business done by the state fund during the previous year and containing a statement of the resources and liabilities of the state fund.

Section 10. Section 39-71-2321, MCA, is amended to read:

"**39-71-2321. What to be deposited in state fund.** (1)(a) All premiums, penalties, recoveries by subrogation, interest earned upon money belonging to the state fund, and securities acquired by or through use of money must be deposited in the state fund. They must be separated into two accounts based upon whether they relate to claims for injuries resulting from accidents that occurred before July 1, 1990, or claims for injuries resulting from accidents that occur on or after that date.

(b) Subject to the requirements of [section 9], the state fund shall set aside up to 15% of annual employer premiums for the expense of administering the state fund for

the succeeding fiscal year. The administrative expense funds are statutorily appropriated as provided in 17-7-502.

(2) The proceeds of bonds issued and loans given to the state fund under 39-71-2354 and 39-71-2355 must be deposited in the account for claims for injuries resulting from accidents that occurred before July 1, 1990."

Section 11. Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;

17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 39-71-2321; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit;

and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.)"

NEW SECTION. **Section 12.** **Codification instruction.** [Sections 7 through 9] are intended to be codified as an integral part of Title 39, chapter 71, part 23, and the provisions of Title 39, chapter 71, part 23, apply to [sections 7 through 9].

NEW SECTION. **Section 13.** **Effective date.** [This act] is effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0013, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill generally revises workers' compensation law, placing the State Fund under the authority of the Insurance Commissioner, revising the State Fund's budget and funding procedures, exempting the State Fund from the provisions of the Montana Administrative Procedure Act, and providing a statutory appropriation.

ASSUMPTIONS:

State Auditor:

1. The Montana Insurance Program would contract with outside services for the accounting & actuarial examination in order to maintain current statutory responsibilities.
2. The examination would cover two major areas: Evaluation of the adequacy of workers compensation rates used and the determination of financial conditions (net worth) of the State Fund as of June 30th.
3. FY 1993 will be the first year available for review & will not be reviewed until after Oct. 1, 1993 (FY94).
4. Initial review will include additional steps to ensure base line data.
5. State Fund will be billed for the cost of each evaluation with the proceeds deposited to the general fund.
6. The cost estimate for the contracted review is based on the average of quotations provided by three independent firms who perform similar reviews.

State Compensation Mutual Insurance Fund:

1. The State Fund will not be subject to statutory accounting procedures.
2. The Insurance Commissioner's rate review will include a review of the State Fund's solvency and rate structure. The State Fund will be billed $55,000 in FY94 and $40,000 in FY95.
3. The State Fund will generate a surplus of $66 million over an eight year period requiring a rate increase equivalent to approximately $12.6 million per year.
4. Subsequent to the interim rate increase approved by the State Fund board for FY93, the unfunded liability at the end of FY93 is projected to be approximately $38 million.
5. The State Fund's administrative budget would increase to the level approved by the Board of Directors (no more than 10% of earned premium). Increased administrative costs shown below are relative to the executive budget recommendations and include fees paid to the State Auditor. Premiums will increase commensurate with increase in administrative expenses.
5. Premium income for FY93 through FY95 is estimated at $165 million, $181.5 million, and $199.7 million, respectively.

FISCAL IMPACT: (continued)

Dave Lewis 1-8-93

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

R Benedict 1/9/93

STEVE BENEDICT, PRIMARY SPONSOR DATE

FISCAL IMPACT:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
State Auditor (Insurance Program-03)						
Expenditures:						
FTE	30.00	30.00	0	30.00	30.00	0
Personal Services	935,160	935,160	0	937,323	937,323	0
Operating Expenses	168,578	223,578	55,000	159,266	199,266	40,000
Equipment	3,300	3,300	0	0	0	0
Total (General Fund)	$1,107,038	$1,162,038	$55,000	$1,096,589	$1,136,589	$40,000
Revenues:						
Ins. License/Permit Fees (01)	$1,500,000	$1,555,000	$55,000	$1,500,000	$1,540,000	$40,000
State Fund						
Expenditures:						
FTE	224.50	242.50	18.00	227.50	263.50	36.00
Personal Services	6,498,681	7,168,298	669,617	6,584,924	7,901,703	1,316,779
Operating Expenses	3,615,187	4,129,598	514,411	3,922,172	3,924,336	2,164
Equipment	310,066	351,501	41,435	236,597	329,086	92,489
Benefits	166,027,953	166,027,953	0	182,948,465	182,948,465	0
Transfers	2,839,300	2,839,300	0	2,716,695	2,716,695	0
Debt Service	134,256	318,000	183,744	221,580	318,000	96,420
Total (Proprietary)	$179,425,443	$180,834,650	$1,409,207	$196,630,433	$198,138,285	$1,507,852
Revenues:						
Premiums (Proprietary)	$181,500,000	$195,500,000	$14,000,000	$199,650,000	$213,750,000	$14,100,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Any county or local government insured through the State Fund will have a rate increase.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
A rate increase will remain in effect until an adequate surplus has been established.

STATE OF MONTANA -- FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0013, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill generally revises workers' compensation law, permitting the governor to contract for private sector liquidation and management, clarifying compensability of mental stress claims, providing for gubernatorial appointment of the board and executive director at the pleasure of the governor, revising the State Fund's budget and funding procedures, exempting the State Fund from the provisions of the Montana Administrative Procedure Act for purposes other than ratemaking, requiring notification to claimants, and providing statutory and temporary appropriations.

ASSUMPTIONS:

Legislative Auditor:

1. The Legislative Auditor would contract with outside services for actuarial examination of State Fund rates.
2. The State Fund would be billed for the costs of the contracted actuarial examination.

State Compensation Mutual Insurance Fund:

1. The State Fund will not be subject to statutory accounting procedures. If the State Fund were subject to statutory accounting procedures, costs would be incurred for system modifications and staff training.
2. The State Fund will generate a surplus of $50 million over a ten year period requiring a rate increase equivalent to approximately $9.2 million per year. The projected rate increase takes into consideration an estimated $42 million unfunded liability.
3. The State Fund's administrative budget would increase to the level approved by the Board of Directors. The SCMIF boar has authorized the State Fund to spend no more than 10% of earned premium for administration. The estimated administrative expenditures under the proposed legislation would be 7.4% and 7.2% of earned premium in FY94 and FY95, respectively. Increased administrative costs shown below are relative to the appropriations currently contained in HB
4. Rates are estimated by the actuary assuming a reserve for administration of between 8-10% of earned premium. Insofar the estimated expenditures for administration under the proposed legislation is less than that amount, the increased expenditures for administration is assumed to have no impact on premiums.
5. Premium income for FY93 through FY95 is estimated at $165 million, $181.5 million, and $199.7 million, respectively. Earned premium is estimated to remain constant at approximately $200 million through FY 2003.

Office of the Governor

1. The terms of any contract the Governor may enter into with a private sector entity to liquidate the claims of the old fund and to manage claims of the new fund cannot be defined until such terms are negotiated. The fiscal impact of suc a contract, per se, is therefore outside the scope of this fiscal note.
2. The Governor's Office would require funding in FY93, continuing into FY94, for the costs of contracting for a thorough review and analysis of any proposals received from interested parties.
3. The Governor's Office, or agency designated by the Governor to administer a contract, would require an appropriation f the payment of premium and claims administration costs. The proposed legislation limits this amount to $400 million. Funding for payment of premium and claims administration costs would be from the workers' compensation payroll account

(continued)

Dave Lewis 3.24.93

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

3-25-93

STEVE BENEDICT, PRIMARY SPONSOR DATE

FISCAL IMPACT:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Legislative Auditor						
Expenditures:						
Contracted Services (State Special Revenue)	0	35,000	35,000	0	35,000	**35,000**
State Fund						
Expenditures:						
FTE	221.25	239.25	18.00	224.25	257.25	**33.00**
Personal Services	6,103,718	6,963,220	859,502	6,185,549	7,545,758	**1,360,209**
Operating Expenses	3,915,756	3,986,976	71,220	4,042,619	4,151,561	**108,942**
Equipment	326,100	396,035	69,935	216,955	366,444	**149,489**
Benefits	153,014,525	153,014,525	0	167,994,354	167,994,354	**0**
Transfers	2,709,300	2,709,300	0	2,726,695	2,726,695	**0**
Debt Service	134,256	134,256	0	221,580	221,580	**0**
Total	166,203,655	167,204,312	1,000,657	181,387,752	183,006,392	**1,618,640**
Revenues:						
Premiums (Proprietary)	$181,500,000	$190,700,000	$9,200,000	$199,650,000	$208,850,000	**$9,200,000**
Office of the Governor (or designated agency)						
Expenditures:						
Premium/Claims Administration (State Special Revenue)	0	400,000,000	400,000,000	0	0	**0**

	FY93-94		
	Current Law	Proposed Law	Difference
Contract Review & Analysis (Proprietary Revenue)	0	50,000	50,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Any county or local government insured through the State Fund will experience a rate increase.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
A rate increase will remain in effect until a 25% surplus has been established.

HB 13

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON WORKERS' COMPENSATION

Call to Order: By CHAIRMAN CHASE HIBBARD, on January 18, 1993, at 3:20 p.m.

ROLL CALL

Members Present:
Rep. Chase Hibbard, Chairman (R)
Rep. Jerry Driscoll, Vice Chairman (D)
Rep. Steve Benedict (R)
Rep. Ernest Bergsagel (R)
Rep. Vicki Cocchiarella (D)
Rep. David Ewer (D)

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon, Legislative Council
Evy Hendrickson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 13
Executive Action: None

HEARING ON HB 13

Opening Statement by Sponsor:

REP. STEVE BENEDICT, House District 64, Hamilton, sponsor of HB 13, appeared on behalf of the Joint Select Committee on Workers' Comp Interim Committee which had been meeting over the last two years. HB 13 was introduced at the unanimous request of the Legislative Interim Committee on Workers' Compensation of which he was vice chairman.

REP. BENEDICT said the general purpose of the legislation was to return the State Fund to a status similar to that provided by the 1989 Legislature so that it could operate more like a private insurance company. The 1989 Legislature created the State Fund and as a private insurance carrier transferred the Workers' Comp regulatory functions to the Department of Labor. During a special session of the legislature in May 1990, only five months

after the new fund was created, the legislature effectively nullified the 1989 legislation and directed the State Fund to operate like a state agency.

He explained the three major components of **HB 13.** The bill would remove the State Fund from the requirements of the Montana Administrative Procedures Act (MAPA). No other insurance company or state fund has been subject to these requirements. There would be no need for the State Fund to follow MAPA requirements which can hinder an insurance operation. The State Fund rates would be subject to review by the insurance commissioner's office if the bill should be adopted.

He said the bill would also subject the State Fund to essentially the same supervision and review exercised by the insurance commissioner on private carriers. This independent scrutiny would include review by the insurance commissioner in two major areas: rates and the financial condition of the fund. The bill, with amendments, would allow the legislature, Governor Racicot, and the State Fund Board to retain an oversight responsibility because the insurance commissioner's office would be required to report its findings to all three of these entities regarding rates and financial condition of the fund.

The bill would give the State Fund more flexibility in setting its own budget in order to react to the changing needs of complex problems faced in the insurance business. The bill would allow the legislature to retain an oversight responsibility because of the 15% cap on expenditures and the requirement placed on the board to report on its financial status not only to the legislature, but the Governor and the insurance commissioner.

In summary, he said the State Fund must be allowed to operate as nearly as possible like a private carrier and still provide outside review and oversight. He believed the bill accomplished that and urged the committee's support. He said there were proposed amendments to the bill and copies of those amendments were provided to the committee.

Nancy Butler, General Counsel for the State Fund, explained where the amendments would be in the bill and how they would affect the bill. She explained the amendments in the order they were given and the reason for each one. **EXHIBIT 1**

Questions From Committee Members and Responses:

REP. EWER indicated he had no questions but it would take some time to digest the proposed amendments.

CHAIRMAN HIBBARD said he was confused as to the amendment on pages 7 and 8 where it referred to the National Council on Compensation Insurance (NCCI) and rate setting. He asked **Ms. Butler** to clarify that again.

Ms. Butler referred to Title 33, the insurance code, and said it generally didn't apply to the State Fund but there was a provision in Title 33 that required the State Fund to belong to a rating organization. They felt that it need not be in this statute because it was already in another statute. Therefore, it would not hurt to delete it initially, but they thought in order to clarify the fact that the State Fund did intend to be a member of a rating organization they would put it back in.

CHAIRMAN HIBBARD asked how many rating organizations there are. **MS. Butler** replied there was just one to her knowledge.

REP. EWER asked what the role of the legislative auditor would be if this bill should become law.

CHAIRMAN HIBBARD said, if questions referred to the amendments, it would be appropriate to ask them at this time. If they were not pertinent specifically to amendments, the committee should hear the rest of the testimony, hear the proponents and opponents and then ask questions. **CHAIRMAN HIBBARD** asked if there were any other questions related to the amendments. There were not.

Proponents' Testimony:

Pat Sweeney, representing the **State Fund**, said the State Fund supported **HB 13** and the amendments as submitted by **REP. BENEDICT**. This bill would generally revise the areas regarding the operation, administration and control of the State Fund; he discussed each area. **EXHIBIT 2**

Tom Harrison, Chairman of the State Fund Board of Directors, said he didn't want to repeat the testimony of **Ms. Butler** and **Mr. Sweeney** but mentioned a couple of practical considerations as far as the day-to-day operations and attempts to direct the fund. For example, in the past year the board of directors had been interested in moving toward some type of advance premium. They didn't have within their budgetary constraints any more money in contracted services so this could not be done at this time.

He said there was some inconsistency in flexibility when they tried to make advancements and changes on multiple fronts and then run into obstructions. They want more safety people at this particular time, but the FTE aren't available. They'd like more claim examiners until they get caught up, but they can't do that. They don't have FTE set by the budgetary process, and they can't get past that. That creates a lot of barriers; if they want this addressed as an operational business, they have to have the ability to do that without jumping through the myriad of hoops contained in the state budgetary process.

He thought the amendments were good amendments, good changes that would allow the board to address these problems in a timely fashion with the amount of money necessary to meet the problem at

the time and not to have to address unnecessary technical matters when in a competitive business like the insurance business.

Paul Svrcek, Immediate Past Chairman of the Interim Committee on Workers' Compensation, said the reasons to support the bill had been adequately illustrated. The puzzle of workers' compensation contains many pieces, some of which have been discussed. One important one restores the authority and flexibility needed to allow more effective and responsive management of the State Fund.

He said, as **Mr. Sweeney** indicated, the bill gives the State Fund the time to build up required reserves. If they were required to come under the reserve requirements immediately, they would be out of compliance with the law the day they opened their doors. He said he would have preferred to have given the insurance commissioner more teeth than is presently contemplated in this bill -- such as the ability to shut the State Fund down if it is out of compliance with the law, just as the commissioner is allowed to do with any other insurance operation.

He was confident that if the insurance commissioner shut the State Fund down, the legislature would be back in session quite quickly to deal with it in whatever way needed. Unfortunately, that option was not palatable to a majority of the interim committee members so it was not included in the bill.

George Wood, Executive Secretary of the Montana Self Insurers Association, testified that the Association strongly endorsed the concept of a business-operated, actuarially sound State Fund. The bill itself presented some problems to them but some of them had been answered by the amendments. He said he was still confused as to whether this entity is a state agency or not.

He had a suggestion concerning the surplus requirements. The insurance commissioner would report to the legislature and the Governor that they were progressing towards the surplus that the bill required. He would like to see the situation split so that a surplus of 10% be required by 1996 and the 25% by 2003 so there would be some steps along the way to indicate whether or not they were meeting their goals.

Jacqueline Lenmark, the American Insurance Association (AIA), said the State Fund was exempted from most other requirements that private carriers must meet when regulated by the insurance commissioner, including the premium caps, recording requirements including investment requirements, surplus and reserve requirements and the ability to liquidate if the company is insolvent.

She said she had stated her concern regarding the politicization of the ratemaking process and the consequent possible result in suppression or continued rating inadequacy. She was concerned that, without some sort of enforcement within the insurance commissioner's power, this would be a further disincentive for the re-entry of private carriers into Montana's market or for

continued withdrawal from Montana's workers' compensation market.

She said the other area of danger that was a major concern for AIA with this proposed bill was the suggestion that the State Fund could withdraw from NCCI and that was probably their most serious concern with the bill as proposed.

She stated the State Fund had approximately 80% of the total market share in Montana, including the State Fund Plan 2, private carriers and self insurers. While the State Fund should be relying upon the information provided by NCCI as the basis for adequate rating, NCCI also relies on the market experience of the State Fund and, in turn, the private carriers rely upon that information in setting and filing their rates with the insurance commissioner.

If the State Fund was permitted to withdraw from NCCI, or make that unilateral decision, NCCI would be deprived of that data and consequently would have to look to other states to develop Montana rates. If there was not sufficient credible data within other neighboring or similar states, they'd have to go to national experience to develop the primary rates.

She said the possibility of a regional ratemaking organization had been raised but it was just a possibility. She wondered whether there would be full participation by all insurers in that organization or would be it be an organization just for state funds. The AIA suggested that the State Fund be required to remain within the NCCI for the time being. If a regional organization should appear on the horizon, the legislature could revisit the appropriateness of that decision.

James Tutwiler, representing the **Montana Chamber of Commerce,** said the Montana Chamber of Commerce supported the bill and the concept of what the bill attempted to do.

He said there was a general perception among businesses in Montana that workers' compensation in the state was not working very well. In fact, when they look back on the history, beginning in the 1980's, the debt had raised the old fund liabilities reserve over $400 million and the new fund was struggling with an early deficit approaching $50 million.

He believed the bill offered the prospect of moving management of workers' compensation into a new direction. In other words, the bill had the potential to lay the ground work to dramatically impact how the State Fund was managed. He thought it important that employers don't have confidence that business as usual will serve business and the economy in Montana well.

The perception they had on this bill was that perhaps in this session the administration, this committee, and the State Fund itself may well consider legislation that would increase the State Fund's ability to look at privatization or contracted

services. He thought this had possibilities and the bill would seem to give the State Fund managers the capability to do that.

He summarized his testimony by stating their support of the provision regarding MAPA, the provisions that pertain to the Association's office and particularly the measure that had to do with flexibility and budgeting. His only concern at this point was they hoped the committee would take a close look at the 15% premium for administrative costs - that is the right direction in which to go.

Don Allen, on behalf of the **Coalition of Workers' Compensation System Improvement**, said that following one of their committee meetings pertaining to changes in the administrative actions which could make a difference in the future of the State Fund and workers' comp itself in the state, they endorsed this bill as part of their recommendations. However, he said they could not view this bill as anywhere close to an overall answer.

As far as the bill goes, it still comes back to the responsibility and accountability of management both from a management and fiscal standpoint. He said they had not had a chance to review the amendments.

The bottom line of the coalition, which was made up of a broad spectrum of employers, workers, organizations and associations, was to see improvements in the system that would make a difference in the future. The coalition wanted changes this year and not next year. They were hopeful that the bill could become part of the mix of things that could be done to move the state forward in the workers' comp situation.

Riley Johnson, representing the **National Federation of Independent Business (NFIB)**, said they supported the intent of the bill and also agreed on a number of the amendments being offered dealing with increment increases.

He reported on NFIB's survey and said they very much favored privatization. They also supported privatization of certain functions such as claims and supported the fund being placed under the insurance commissioner; however, to what extent this should happen was another question. He said he had heard some words called "new direction" in the fund but had heard that before. If anyone looked at the front page of a number of papers that morning, they saw one more example of what was happening to the small businesses of this state. They are leaving. He said he couldn't begin to tell how many people and how many members of NFIB had left.

He expressed the hope that the committee would take its charge seriously. If there is going to be a new direction with the fund, it should be done right and done finally. Their members could not survive continuous 65% increases in a year and half.

Keith Olson, Executive Director of Montana Logging Association (MLA), said his association represented over 600 independent logging contractors in Montana, the vast majority of which were State Fund insurers. The current appropriations process restricts the State Fund's ability to provide three essential services: safety, claims management audit and points. HB 13 addresses these limitations and they support the bill.

Informational Testimony:

Mark O'Keefe, State Auditor and Commissioner of Insurance for the State of Montana, presented written testimony. **EXHIBIT 3**

Robert Olsen, Montana Hospital Association, presented written testimony. **EXHIBIT 4**

CHAIRMAN HIBBARD asked **Mr. Olsen** if he was an opponent. **Mr. Olsen** said he was not taking an official position and just wanted his comments registered.

Opponents' Testimony:

Mona Jamison, representing the Montana Chapter of Physical Therapy Association, said the bill contained no teeth and no accountability. Addressing the section which would transfer the authority to the insurance commissioner, she said she was surprised the auditor did not come straight out and object to the bill. She believed what the bill would do is give him all the political heat and no power. It would also present to the public the delusion that something was going to be accomplished and, in essence, nothing would be.

She also was shocked to hear proponents of taking the State Fund totally out of MAPA. The purpose of the Montana Administrative Procedure Act, as it relates to rules, is public input. It gives a voice to the citizens -- be they employers, employees or providers -- as to a proposal's impact. The implication, she said, is the public doesn't have the wherewithal to understand it, so why even bother. She said the benefit of MAPA is that it is state government's opportunity to let the public know they are part of the system.

She said **Mr. Sweeney** testified that, since the insurance commissioner could supervise and review aspects of the fund, MAPA's rates were not needed and asked that the committee be aware of that argument. Review is different than public input. **Ms. Jamison** said the way this bill was structured, the authority, or lack of authority, given to the insurance commissioner was entirely different than the public having the right to comment on what was being proposed.

She asked the committee not to give the State Fund the best of

both worlds: treat them as a private entity but be there to bail them out.

Ms. Jamison said that, before the bill is adopted -- and obviously the momentum is there because all the affected parties are here -- the committee must understand the purpose of MAPA. To take the State Fund out of MAPA and disenfranchise the public would probably be the worst thing that could happen in this bill. She said if every other agency in state government can comply with MAPA, so can the State Fund. The six-month ruling is not all that tedious.

Rose Hughes, Executive Director of Montana Health Care Association, appeared as an opponent and submitted informational testimony. **EXHIBIT 5**

Ms. Hughes said she was not appearing before the committee to ask for lower rates or to even deal with how high the rates were or what that problem was. She said she was there to ask for continued input into a process that's costing them a great amount of money and said they were especially concerned with the provision to remove the State Fund from the provisions of MAPA because that provides the interested parties with the only possible way to have some input about how rates are set. The general methodology of MAPA would allow employers a reasonable expectation of fair treatment.

Ms. Jamison said people who were concerned were told the State Fund was removed from MAPA because it would receive accountability under the insurance commissioner. The insurance commissioner said that would not happen. She was concerned this bill would give little accountability.

CHAIRMAN HIBBARD recessed the hearing at 4:45 p.m. for 10 minutes.

Meeting reconvened at 4:55 p.m.

CHAIRMAN HIBBARD asked if there were questions for **Mr. O'Keefe.**

REP. DRISCOLL stated that USF&G and CIGNA were still writing workers' compensation in the state and asked **Mr. O'Keefe** what his office did with those companies.

Mr. O'Keefe responded that, if **REP. DRISCOLL** wanted to know exactly what they do, he would have the people who do the examinations explain that and introduced **Jim Borchardt**, chief examiner for the state.

REP. DRISCOLL restated the question for **Mr. Borchardt.**

Jim Borchardt stated they regulate them like any other insurer. They have to file an annual statement each year, pay premium taxes, and meet minimum financial standards which are so low that

virtually anyone can at the present time. They have to file rates and forms. If those requirements were done improperly, they would be subject to certain sanctions and penalties.

REP. DRISCOLL said that Glacier General was selling workers' comp for the State of Montana and the auditor at that time shut them down. He asked why they were shut down.

Mr. Borchardt replied it was primarily because the company had sold approximately 800 mortgage guarantee insurance policies, an area in which they had no expertise. It turned out that virtually the entire number were fraudulent or at least highly questionable because there was a claim on every one. That involved a huge amount of money, tens of millions of dollars. It was the primary reason that Glacier General went down.

REP. DRISCOLL asked **Mr. Borchardt** to provide the committee with what they do with private workers' comp insurance companies and what the difference is between that and what this bill says they should do with the State Fund.

Mr. Borchardt said first of all would be examination. All insurers, whether domestic or foreign (if from any other state) are subject to examination. With virtually all foreign insurers they defer to the examinations done by the insurance department in the other state rather than doing it themselves. They simply don't have the resources to do over 1400 companies.

With domestic insurers they would examine in the area of rates - whatever rates a company wished to use they could go ahead and use them, but they would have to file the rates with his office. At that point, their actuary would take a look at the rates to see if they were either inadequate, excessive or unfairly discriminatory. If the actuary found some problems in those areas, he would likely go back to the company and tell them he objected to a part of their 114. At that point the insurer would have to decide whether to comply or object. If they wished to object, they could call a hearing and go through the rest of the legal process, i.e., going to court if they so chose. If they decided to comply, they would make amendments in their refiling and at that point they would presumably be approved.

REP. DRISCOLL said he didn't understand the difference between what was proposed in the bill and what the insurance commissioner did for the other insurance companies with the exception of the reserve.

Mr. Borchardt said, as he understood the amendment that the State Fund brought in with regard to rates, his office could evaluate those rates. If they found them inadequate, they would simply report that to the Governor and the legislature. With a regular private insurer, if they object to the inadequate rates, his office tells them they can't use them. That was the primary difference and there were, at least at the present time according

to their actuary's analysis, some significant differences between those rates filed by the NCCI which his office had approved and those rates used by the State Fund which are considerably lower.

CHAIRMAN HIBBARD asked **Mr. O'Keefe** if he wanted to comment.

Mr. O'Keefe stated that **Mr. Borchardt** had responded as far as the technical end. What had been taken away from the state auditor in this proposal had to do with part 13-332, Sub-Section 13. **(see Section 13)** It would give the right for the insurance commissioner to go in, if need be, and essentially become the CEO of workers' comp but he stated he personally would not like to do that.

He said the rates are what they must increase in order to achieve the proper reserves. Right now the bill says there would be a percentage surplus in eight or ten years, but it didn't tell anyone how to do it. As a rehabilitator, the insurance commissioner's office is in the business of telling people how to do it and there was nothing like that in this bill.

Ms Jamison responded to a question from **REP. DRISCOLL** concerning rulemaking and said she was not in a position to address the specificity or the validity of those rules but had a comment about rules in general. She said if they were necessary, it's the legislature that gives every agency their rulemaking authority, and without that authority no agency in state government can adopt rules. MAPA says that the legislature has given an agency the authority to adopt rules and then asks for public input.

She said rulemaking is really a mini-legislative process; she was sure no legislator on the committee would ever suggest that the public did not have the right to testify on bills. In fact, many votes have been changed as a result of public input and that would be a validity of the administrative level also.

REP. DRISCOLL asked **Ms. Jamison** if she had ever seen an agency change any rules after public input. **Ms. Jamison** answered that the Department of Health had done that in the health care area and in the environmental area. The Board of Investments had done it with rules where people have submitted written comments. She said some agencies are far less fearful than others of receiving input. They look at it as a tool. Other agencies look at it as a weapon - that the public is out to get them. She suggested when an agency makes the transition, that input would be helpful. The process becomes easier. The public is not their foe, the public is their friend. When the public comes to testify, whether legislators like the testimony or not, it does improve the process.

CHAIRMAN HIBBARD told **Ms. Jamison** that one of the problems, as he understood it, was the unnecessary public hearings and the unnecessary cumbersomeness in trying to set rates in response to

a marked situation. He said there was some fear that the administrative process might get in the way of that. It was not totally clear to him from the testimony whether it would or not. He said he heard that the setting of the rule would require public input, but the actual rate setting probably would not and asked **Ms. Jamison** to clarify that for him.

Ms. Jamison stated there was probably someone who was better at addressing that but the way she understood the rules of the State Compensation Mutual Insurance Fund was, one of the chapters was called "premium rates" and that seemed to list how things were calculated and the methodologies that were used or would be used as opposed to the actual establishment of the rates. She said it appeared that the most recent rules were June 30, 1992, and that was the only date she saw in terms of the rules, at least for the last biennium. Maybe there had been other numerous rulemaking hearings, but what she was suggesting was a lot of other agencies go through numerous rulemaking processes also.

CHAIRMAN HIBBARD asked someone from the State Fund to state the advantages of being exempted from MAPA or the disadvantages in remaining under that umbrella.

Ms. Butler said there were several reasons why the State Fund shouldn't be subject to MAPA. The first reason, as indicated earlier, was they are an insurance company essentially and no other insurance company or state fund in the country that she was aware of, was subject to a MAPA requirement.

They put their process in rule form but this prevents the board from adapting quickly to changes if a change in the process is indicated. They are in the process of amending their rules which will be effective July 1, 1993. She had to start with the board late last year on any amendments that might be necessary to that process so they would be in place and effective when the ratemaking decision was made in approximately April or May. This was so they could give sufficient notice to policyholders for the rates prior to July 1, 1993. But if something in the data needed to be changed in the process, based on what the actuary found when he started his process in late February, it would be too late.

She said those were primary reasons why it would be difficult for state funds and insurance companies to be subject to the administrative procedure process. She also corrected a statement made that they were not subject to public participation - that is in current statute. She said **Mr. Sweeny** testified they would be subject to public participation. So, when the board was involved in the rate setting process, the public could come and comment on this as the board was dealing with it.

CHAIRMAN HIBBARD said **Ms. Butler** told them that perhaps it was public scrutiny in the actual rate setting process and it would be cumbersome and something that normally insurance companies

were not subjected to in setting rates. However, they had heard from **Ms. Jamison** that perhaps that wasn't the case and said he was confused.

Ms. Jamison said to a certain extent it's like beauty. Whether or not it's cumbersome would be in the eyes of the beholder and related to who was trying to get where and how fast. The MAPA provision doesn't have to do with the establishment of rates.

She said there was an underlying assumption that MAPA should not apply as they were a private insurance company. She said they were not a private insurance company. They were still talking about a public debt but she said she would be willing to go along with that if, in fact, that's what they were and they didn't have the benefit of state protection and probably state bail out.

Ms. Jamison said it's easy to say that because if they were private, they're right, MAPA should not apply but that would be a matter of judgement. She asked what the connections of the Fund were with the government and believed that was the fundamental question. If they were private, then MAPA need not and should not apply.

Ms. Jamison said **Mr. Sweeney** had already testified and felt sure the minutes would indicate he had said they were a state agency. She said they are a state agency and that was a decision the committee would have to make. She suggested that they couldn't have it both ways.

REP. EWER said the State Fund had asserted that it could not react quickly enough for what needed to be done and he acknowledged that they were a state agency but he also suggested that their mission was very different from any other state agency. He believed if they were the only ones to set the rate, shouldn't the public have the right to have some say in that process given the taxpayer probably would ultimately be on the hook.

REP. DRISCOLL asked **Ms. Jamison** if the State Fund could go through this procedure and simply adopt the rules saying that anytime the actuary tells them the rates are inadequate they could raise them. They would tell them no one would receive an increase more than 50% and there would be interim rate increases anytime the actuary told them they should do so. Could they have a hearing on that rule and adopt it even if the public said no?

Ms. Jamison said they could still adopt the rule even if the public didn't like what they were doing; however, they would have to explain why they did not accept their comments.

REP. EWER asked if their rules require them to notify those 27,000 policyholders that there was going to be a rate increase or they were considering a rate increase.

Mr. Sweeney said they notify their policyholders 30 days prior to each rate increase. So, for a July 1 increase they would notify their policyholders by the end of May of the perspective rates in their individual class codes.

REP. EWER said he realized that was very expensive and from his experience that may not be necessary. He said as he interpreted the rule notice, if it was in the paper, it would be up to the public. If they were interested in the subject, it would be up to them to follow this.

Mr. Sweeney said maybe he could clarify that for **REP. EWER.** They notify their policyholders of their forthcoming rate increase by individual class code so the policyholder would have an idea what he would be paying in the forthcoming quarters for his coverage with the State Fund.

Ms. Jamison said under the Montana Administrative Procedure Act they would be required to publish their notice of intent to adopt rules in the Montana Administrative Register which would be considered effective notice to the parties affected. She then referred to page 7 of the bill pertaining to MAPA.

Closing by Sponsor:

REP. BENEDICT said the bill had received an excellent hearing, and appreciated all the input from those testifying. If somebody could come up with a better scenario about how the state insurance commissioner could be involved, he said he would be very interested. The reason the insurance commissioner was included in the bill was to give the public, employers and employees some assurance there was somebody watching over the State Fund and not just the board of directors.

REP. BENEDICT said somebody had mentioned that NCCI should be put back into the bill and he had no problem with that. If it proved to hinder private carriers in their ability to write business in the state, then it would be no problem to reinsert NCCI. They were trying to get away from tying the fund to NCCI forever in statute. If people would be more comfortable putting NCCI back in, he would be more than happy to do that.

In the matter of incremental reserves, one of the proponents from the self insurers wanted to see the reserves raise again with fairly fast increments. In fact, **REP. BENEDICT** thought it was 35% to 40% within about three years or two and one half years by 1996. He felt there was a problem with that and a more gradual phase would be beneficial to the employers in the state.

He said if they put together a good package of reforms, which he was confident they would do during the session, it would still be four or five years before the actuaries would give credit for what had been done. In the meantime, those premium rate

increases would still take effect.

He said there were some valid concerns about MAPA but the State Fund is not like any other state agency. It's not like a private insurance carrier, it's not like anything else in existence, it's a state fund and we've got to keep it in mind. He said there was plenty of opportunity for public input in the process. Rules are not adopted in the State Fund without some form of public comment. This bill would not remove any of that process; it would not make the fund a secret organization, contrary to the testimony of one of the opponents. That particular opponent said it was surprising to see the business community behind this particular bill. As a business man, **REP. BENEDICT** said it was not surprising to him, and he didn't think it would be surprising to anyone running a business that they have to make critical decisions and move on those decisions without the encumbrance of waiting for up to six months for some rules. They have to be able to make corrections and make them fast, especially in such a volatile business as insurance. He said private insurers write business in the state and nobody asked them to come in and become a part of MAPA. They do the same exact thing as the State Fund and that's write insurance. The State Fund doesn't administer a body of law as other state agencies do. They administer an insurance company and are completely different from other state agencies and he didn't think they should be subjected to the MAPA requirements.

CHAIRMAN HIBBARD said no executive action would be taken on the bill. He informed the committee they would be hearing from people from Oregon and from a physician talking about medical fraud and abuses from the standpoint of a practicing physician.

ADJOURNMENT

Adjournment: 6:10 p.m.

REP. CHASE HIBBARD, Chairman

EVY HENDRICKSON, Secretary
By Marilyn Miller

CH/ev

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HOUSE OF REPRESENTATIVES

Selet Committe Workers Comp COMMITTEE

ROLL CALL DATE 1-14-93

NAME	PRESENT	ABSENT	EXCUSED
Chase Hibbard, Chairman	✓		
Jerry Driscoll, Vice Chairman	✓		
Steve Benedict	✓		
Ernest Bergsagel	✓		
Vicki Cocchiarella	✓		
David Ewer	✓	✓	

EXHIBIT 1
DATE 1-18-93
HB 13

Amendments to House Bill No. 13
First Reading Copy

Requested by Representative Benedict
For the Select Committee on Workers' Compensation

Prepared by Paul Verdon
January 13, 1993

1. Title, line 12.
Following: "17-7-502,"
Insert: "18-8-103,"
Strike: "39-71-2314,"

2. Title, line 14.
Strike: "AN"
Strike: "DATE"
Insert: "DATES"

3. Page 2, line 12.
Page 5, line 6 and line 9
Page 6, line 4
Strike: "mutual"

4. Page 5, line 21.
Following: "insurer"
Insert: ", except the state compensation insurance fund as provided for in Title 39, chapter 71, part 23,"

5. Page 6, line 9.
Following: "governor"
Strike: "and"
Insert: ","
Following: "legislature"
Insert: ", and the board of directors of the state compensation insurance fund"

6. Page 6, lines 10 through 23
Strike: section 3 in its entirety
Renumber: subsequent sections

7. Page 8, line 6.
Following: "~~rates.~~"
Insert: "The state fund must be a member of a workers' compensation rating organization and may use the classifications of employment adopted by a workers' compensation rating organization and corresponding rates as a basis for setting its own rates."

8. Page 11, line 2.
Following: "carry"
Insert: "the estimated cost of"

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9. Page 11, lines 5 and 6.
Following: "July 1," on line 5
Strike: the remainder of line 5 through "standards" on line 6
Insert: "2003, a surplus of 25% of annual premium"

10. Page 11, line 7.
Following: line 6
Insert: "

Section 7. Section 18-8-103, MCA, is amended to read:

"18-8-103. Exemptions. This part does not apply to employment of:

(1) registered professional engineers, surveyors, real estate appraisers, or registered architects;

(2) physicians, dentists, or other medical, dental, or health care providers;

(3) expert witnesses hired for use in litigation, hearings officers hired in rulemaking and contested case proceedings under the Montana Administrative Procedure Act, or attorneys as specified by executive order of the governor;

(4) consulting actuaries to the public retirement boards or the state compensation insurance fund; or

(5) private consultants employed by the student associations of the university system with money raised from student activity fees designated for use by those student associations."

Renumber: subsequent sections

11. Page 11, line 8.
Strike: "The"
Insert: "In addition to the examination of the state fund in compliance with 33-1-401, the"

12. Page 11, line 10.
Strike: "or any rate changes"

13. Page 11, lines 11 through 14.
Following: "discriminatory." on line 11
Strike: the remainder of line 11 through "insurer" on line 14
Insert: "If, as provided in 33-16-205, the insurance commissioner determines that state fund rates are excessive, inadequate, or unfairly discriminatory and would be subject to an order prohibiting use of the rates if it were a private insurer, the commissioner shall report those findings to the governor, the legislature, and the board of directors of the state fund"

14. Page 11, line 20.
Strike: "that"
Insert: "as otherwise provided by law, and"

15. Page 12, line 2.
Strike: "budget"
Insert: "administrative expenditures"

16. Page 12, line 3.

Following: "of the"
Insert: "earned"

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17. Page 12, lines 3 and 4.
Following: "annual" on line 3
Strike: "employer premiums"
Insert: "premium of the prior fiscal year"

18. Page 12, line 6.
Strike: "reserve"
Insert: "financial"

19. Page 12, line 7.
Strike: "prepared by the state fund's actuary"
Following: "governor"
Insert: ", to the insurance commissioner,"

20. Page 12, line 10.
Strike: "resources and"
Insert: "estimated"

21. Page 12, line 11.
Following: "fund"
Insert: "as determined by an independent actuary"

22. Page 12, line 23, through page 13, line 1.
Following: "(b)" on page 12, line 23
Strike: the remainder of line 23 through page 13, line 1 in their entirety
Insert: "All funds deposited in the state fund"

23. Page 15, line 2.
Following: line 1
Insert: NEW SECTION. **Section 12. Name change -- directions to code commissioner.** Wherever the name "state compensation mutual insurance fund", meaning the fund established in 39-71-2313, appears in the Montana Code Annotated or in legislation enacted by the 1993 legislature, the code commissioner is directed to change the name to "state compensation insurance fund".

NEW SECTION. **Section 13. {standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.
Renumber: subsequent sections

24. Page 15, lines 4 and 7.
Strike: "7 through"
Insert: "6, 8, and"

25. Page 15, line 8.
Strike: "date. [This act] is"

Insert: "**dates.** (1) [Section 9 and this section] are effective on passage and approval, and [section 9] applies to the budget for fiscal year 1994.
(2) [Sections 1 through 8 and 10 through 14] are"

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Pat Sweeney
State Fund

TESTIMONY IN SUPPORT OF HOUSE BILL 13

EXHIBIT 2
DATE 1-18-93
HB 13

The State Fund supports H.B. 13 and the amendments to H.B. 13.

The bill generally revises the areas regarding the operation, administration and control of the State Fund and I will discuss each of the areas in detail.

Montana Administrative Procedure Act (MAPA)

The first area for your consideration is the removal of the State Fund from the requirements in MAPA. In the 1989 session, the Legislature set up the State Fund to operate as a private insurance carrier and in the 1990 Special Session the Legislature effectively nullified the original 1989 Act and in addition placed the State Fund under MAPA, particularly for the procedures used in its ratemaking process.

As I will discuss later, this bill places the State Fund under the supervision and review of the Insurance Commissioner for ratemaking purposes similar to private insurance companies. Therefore, there is no need to include the ratemaking process under rulemaking procedures.

No other insurance company, nor to the best of our knowledge no other state fund operates under statutes which requires the ratemaking process to be set forth in rules adopted under MAPA.

The MAPA requirements do not make sense when we are operating an insurance business. The MAPA requirements can in fact hinder an insurance operation because of the complexity of the ratemaking process and the ability to file lawsuits alleging a failure to meet every possible contingency, which could place the fund in financial jeopardy.

This bill does not remove the statutory requirements for public participation in governmental operations, statutory standards of conduct, public records and the Legislative Audit Act.

The State Fund Board of Directors needs to be responsive to the policyholders and their concerns but the rates must be established through the use of an independent actuary so as to cover the estimated losses of the fund. Once the oversight by the Insurance Commissioner's Office is in place, little of anything constructive is accomplished by trying to include in rules the entire complex and complicated processes, procedures, formulas, and factors which go into the rate determinations. Factors and conditions change and the Board must be able to react without the concern of amending or adopting rules in order to fulfill their statutory rate requirements.

Insurance Commissioner Supervision and Review

This bill subjects the State Fund to similar requirements as other insurance companies. The insurance commissioner's supervision is basically the same as contemplated by the 1989 legislation.

The specific exemptions from the regulation of insurers are as follows:

1. 33-2-515. Section 515 references limits on discounts on reserves for the annual report. The State Fund because of its nature as a state fund, discounts reserves, currently at 6%. Discounting

reserves provides for the future value of money and is one of the methods used by state funds to not retain excessive premium paid by their policyholders.

2. 33-2- Part 7. Exempt from part 7 - Reports Fees and Taxes. This part deals with taxes and license fees and as the State Fund is the insurer of last resort and a state agency, they should not be subject to a premium tax.

3. 33-2 Part 8. This part deals with investments and since the State Fund investments are controlled by the Board of Investments just like other state entities, there is no need to impose the requirements in the insurance statutes.

4. 33-2- Part 13. This part deals with the rehabilitation and liquidation powers of the insurance commissioner as I will discuss later in this testimony. This bill will direct the insurance commissioner to review the financial condition of the fund and report annually to the Governor, Legislature, and the Board of Directors if the State Fund would be subject to their provisions if it were a private insurer.

As this legislation places the State Fund under the insurance commissioner's supervision, I would like to discuss the two main areas where the commissioner will provide an independent third party review.

First is the annual examination of the affairs, transactions, accounts, records and assets of the State Fund. Once the annual examination is completed, the insurance commissioner is to report to the Governor, Legislature, and the Board of Directors, if it is determined that if the State Fund were a private insurer, it would be subject to the liquidation, supervision, and rehabilitation provisions of the insurance code. As the State Fund is legislatively created as an insurer, is the insurer of last resort, and covers approximately 27,000 policyholders in this state; the Legislature should have the option of determining how the State Fund should be dealt with in a supervision, liquidation, or rehabilitation situation. Secondly, the insurance commissioner will be responsible for annually reviewing the rates of the State Fund. If it should be found by the insurance commissioner that the State Fund premium rates are excessive, inadequate or unfairly discriminatory and the State Fund would be subject to an order prohibiting use of the rates if it were a private insurer, the insurance commissioner is to report those findings to the Governor, the Legislature and the Board of Directors of the State Fund. This is the same review that a private insurer would be subject to. However, since the State Fund is the insurer of last resort for the majority of the State of Montana's employers, the expertise of the Board of Directors in consultation with its independent actuary, and by the authority directly conferred on the Board by the Legislature to manage the State Fund, should be deferred to in the setting of rates. From a practical stand point it is our understanding the insurance commissioner and the State Fund would review any rate questions first to determine if a report is necessary.

This bill also requires the State Fund to work toward attaining sufficient surplus so as to stabilize its rates. Our actuary has advised us that due to our initial undercapitalization, we were unable to withstand the normal fluctuations in the insurance business on a year-to-year basis without periodically having a deficit. The bill as amended would require the State Fund to have 25% of their annual premium in surplus funds by the year 2003. This would entail a first year rate increase of approximately 4.3 % based on a 10% increase in premiums until fiscal year 1996 and then no further increase as it is too difficult to predict. The 4.3% increase with all things being equal would remain until a sufficient level of surplus is attained.

See Exhibit A attached.

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Budget

The State Fund operates at this time solely on those monies collected from its policyholders through premium payments to the State Fund. However, the State Fund is a state agency and through the appropriation process is limited to spending for its operation the amounts that the Legislature approves. This bill would allow the Board to set their budget at a maximum of 15% of the previous year's earned annual premium. The budget approved by the Board is required to be sent to the Governor and Legislature for their review. The purpose of the 15% limit is to continue to allow the Legislature to retain oversight of the State Fund's administrative expenditures. This provision of the bill allows the State Fund to adequately staff to handle its claims, underwriting, safety, audit, and other functions and also provide the flexibility to meet operational needs as they arise. Our claims examiners have case loads historically much higher than industry standards, now at 315 per examiner but we would prefer to see caseloads of 225 to 250 per examiner. Through safety efforts, we cannot reach as many employers as we would like to reach and to thereby reduce the number of injuries and minimize those that do occur. The State Fund could bring in additional funding through their audits if they had more staff. In essence, the State Fund needs to spend more money on its operating costs in order to operate more efficiently and provide better service to injured workers and our policyholders. As you can see on the handout (Exhibit B), the State Fund as compared to other state funds spends much less of its premium dollar on administrative costs. In addition, as you can see from work load indicators, the State Fund is staffed below many other state funds.

The maximum of 15% of the premium dollars spent on operation costs would be statutorily appropriated as would the benefits we are statutorily required to pay for injured workers.

See Exhibit B attached.

Other Provisions

In addition, this bill allows the State Fund to belong to ~~the National Council on Compensation Insurance~~ a rating organization, as it does now but would provide the Fund the flexibility to become a member of other recognized rating organizations. At some point in the future there may be a regional rating organization which might better serve our needs and the State Fund may want to be able to take advantage of such opportunity. This is due to the fact that the state fund and state funds around the country believe we are not getting sufficient benefit as a member of NCCI to warrant the high cost of membership.

The Board, as part of its responsibilities would be required to set rates in consultation with an independent actuary. In the proposed amendments to the bill, is an exemption from the statutes governing procurement of consultants. There is no firm in the State of Montana which currently has casualty actuaries and as you would also note the consulting actuary to the public Retirement Board is also exempt from this provision.

Thank you for your consideration.

SURPLUS GOAL					
33% in 8 years	Rate Load:	6.2%	25% in 8 years	Rate Load:	5.3%
Fiscal Year	Premium	Surplus	Fiscal Year	Premium	Surplus
		($42,000,000)			($42,000,000)
1993	$165,000,000	($31,770,000)	1993	$165,000,000	($33,255,000)
1994	$181,500,000	($20,517,000)	1994	$181,500,000	($23,635,500)
1995	$199,650,000	($8,138,700)	1995	$199,650,000	($13,054,050)
1996	$200,000,000	$4,261,300	1996	$200,000,000	($2,454,050)
1997	$200,000,000	$16,661,300	1997	$200,000,000	$8,145,950
1998	$200,000,000	$29,061,300	1998	$200,000,000	$18,745,950
1999	$200,000,000	$41,461,300	1999	$200,000,000	$29,345,950
2000	$200,000,000	$53,861,300	2000	$200,000,000	$39,945,950
2001	$200,000,000	$66,261,300	2001	$200,000,000	$50,545,950
33% in 10 year	Rate Load:	5.1%	25% in 10 year	Rate Load:	4.3%
Fiscal Year	Premium	Surplus	Fiscal Year	Premium	Surplus
		($42,000,000)			($42,000,000)
1993	$165,000,000	($33,585,000)	1993	$165,000,000	($34,905,000)
1994	$181,500,000	($24,328,500)	1994	$181,500,000	($27,100,500)
1995	$199,650,000	($14,146,350)	1995	$199,650,000	($18,515,550)
1996	$200,000,000	($3,946,350)	1996	$200,000,000	($9,915,550)
1997	$200,000,000	$6,253,650	1997	$200,000,000	($1,315,550)
1998	$200,000,000	$16,453,650	1998	$200,000,000	$7,284,450
1999	$200,000,000	$26,653,650	1999	$200,000,000	$15,884,450
2000	$200,000,000	$36,853,650	2000	$200,000,000	$24,484,450
2001	$200,000,000	$47,053,650	2001	$200,000,000	$33,084,450
2002	$200,000,000	$57,253,650	2002	$200,000,000	$41,684,450
2003	$200,000,000	$67,453,650	2003	$200,000,000	$50,284,450

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"EXHIBIT A"

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WORKLOAD INDICATORS 1991

STATE	NUMBER OF POLICIES	NUMBER OF EMPLOYEES	POLICIES PER EMPLOYEE
ARIZONA	42733	701	60.96
CALIFORNIA	259465	5419	47.88
COLORADO	40560	517	78.45
IDAHO	14491	170	85.24
MARYLAND	26508	267	99.28
MICHIGAN	41183	488	84.39
MINNESOTA	6000	153	39.22
MONTANA	26407	216	122.25
NEW YORK	190168	3073	61.88
OKLAHOMA	9215	446	20.66
OREGON	35695	1104	32.33
PENNSYLVANIA	28397	270	105.17
UTAH	24200	165	146.67

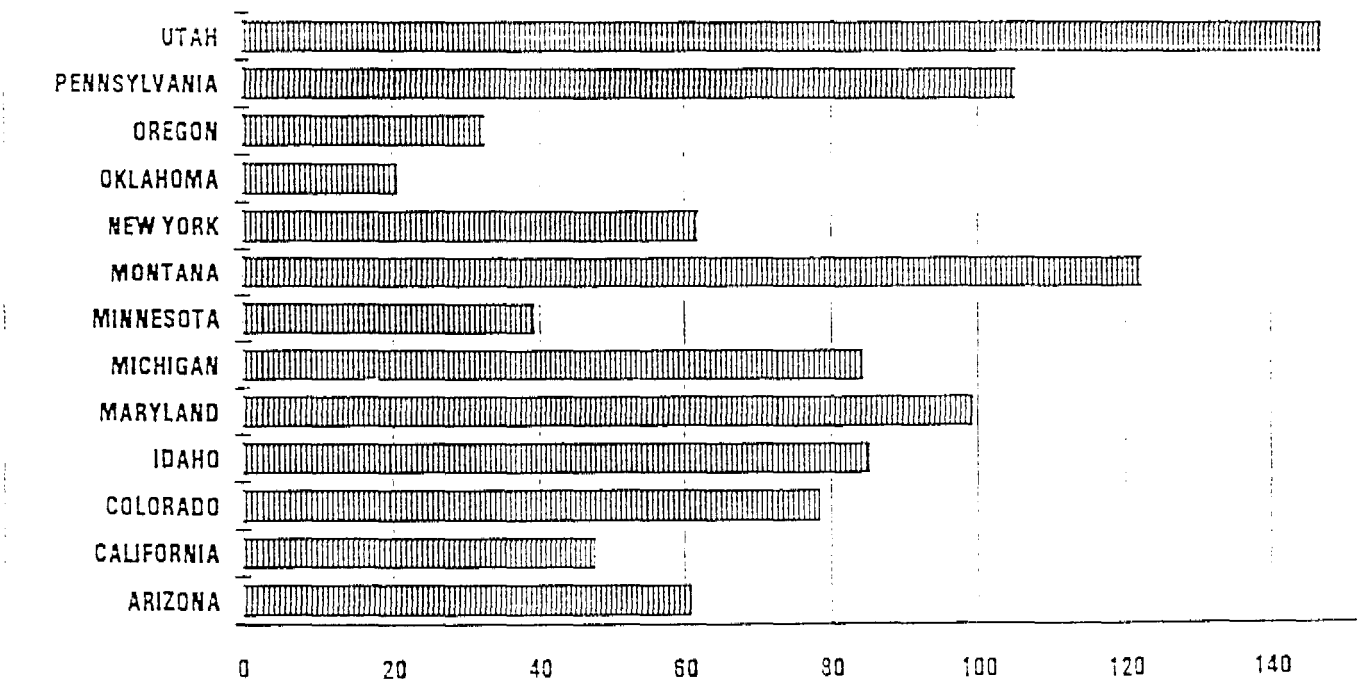

EXHIBIT 3

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ANALYSIS EARNED PREMIUM VS EXPENSES			
COMPETITIVE FUNDS 1987-1991			
STATE	EARNED PREMIUM	EXPENSES	PERCENTAGE
ARIZONA	$1,050,124	$206,030	19.62%
CALIFORNIA	$8,731,613	$1,489,516	17.06%
COLORADO	$1,194,586	$156,862	13.13%
IDAHO	$264,586	$34,688	13.11%
MARYLAND	$622,252	$73,541	11.82%
MICHIGAN	$806,295	$252,230	31.28%
MINNESOTA	$231,336	$87,042	37.63%
MONTANA	$440,717	$46,181	10.48%
NEW YORK	$4,815,027	$966,699	20.08%
OKLAHOMA	$506,981	$71,571	14.12%
OREGON	$1,084,748	$324,164	29.88%
PENNSLYVANIA	$881,483	$150,570	17.08%
UTAH	$386,437	$62,551	16.19%
	Sourrce AASCIF 1992 FACT BOOK		
	(In Thousands of Dollars)		

"EXHIBIT 2 pg. 2"

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BOARD717.XLS

Code	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG.	% NCCI	Foot Note
0005	NURSERY WORKERS & DRIVERS	$30.44	$30.18	$23.22	$17.45	$19.77	$15.82	-20%	52%	
0008	FARM/RANCH - ALL EMPLOYEES & DRIVRS	$19.33	$16.26	$16.16	$12.87	$14.77	$16.76	13%	87%	1A
0007	STATE COLLEGE, AGRICULTURAL WORKERS	$21.43	$17.21	$0.00	$17.21	$17.21	$21.43	25%	100%	3B
0008	GARDENING, HAND HOE/THIN SUGAR BEET	$9.61	$7.88	$8.15	$3.73	$4.14	$6.21	50%	65%	
0034	POULTRY/EGG PRODUCER/HATCHERY & DRV	$23.70	$17.43	$13.41	$16.52	$16.52	$24.78	50%	105%	
0035	FLORISTS-CULTIVATE/GARDEN & DRIVERS	$7.34	$6.21	$5.64	$2.02	$2.24	$3.36	50%	46%	
0042	LANDSCAPE GARDENING & DRIVERS	$17.12	$16.74	$19.50	$9.24	$9.24	$12.38	34%	72%	
0050	FARM MACHINERY OP-CONTRACT-& DRIVER	$26.46	$28.76	$30.59	$20.71	$20.71	$22.05	6%	83%	
0106	TREE PRUNING, SPRAYING & DRIVERS	$52.36	$41.36	$31.82	$25.34	$27.72	$38.97	41%	74%	
0124	REFORESTATION AND DRIVERS	$46.59	$46.27	$0.00	$30.05	$33.87	$46.59	38%	100%	10D
0251	IRRIGATION WORKS OPERATION & DRIVR	$19.29	$17.33	$15.09	$10.85	$12.03	$12.24	2%	63%	
0917	DOMESTIC SERVICE CONTRACTOR INSIDE	$12.47	$14.49	$14.40	$6.98	$7.80	$11.70	50%	94%	
1005	COAL MINING-SURFACE & DRIVERS	$7.58	$6.24	$5.35	$1.27	$1.43	$2.14	50%	28%	
1016	COAL MINING-UNDERGROUND & DRIVERS	$11.86	$11.17	$10.70	$16.95	$19.29	$18.20	-6%	153%	8
1164	MINING NOC-NOT COAL-UNDERGRND & DRV	$60.01	$44.13	$33.95	$28.52	$32.73	$41.93	28%	70%	
1165	MINING NOC-NOT COAL-SURFACE & DRVRS	$8.17	$7.00	$8.53	$6.22	$6.22	$8.29	33%	101%	
1320	OIL OR GAS LEASE OPERATOR	$8.77	$6.45	$5.81	$5.43	$6.11	$6.91	13%	79%	
1322	OIL/GAS WELL-CLEAN OLD WELLS-& DRVR	$62.28	$46.85	$32.54	$29.52	$33.51	$38.68	15%	62%	
1438	SMELT SINT REFINING METAL	$5.98	$7.97	$8.60	$6.04	$6.43	$6.63	3%	111%	
1462	ORE MILLING GRAPHITE MFG	$8.72	$9.82	$11.80	$33.58	$34.54	$27.64	-20%	317%	
1463	ASPHALT WORKS,COAL BILLET/BRIQ MFG	$32.50	$26.00	$19.41	$15.05	$16.91	$21.11	25%	65%	
1624	QUARRY NOC, SLATE SPLITTING & DRVRS	$27.99	$21.21	$21.32	$19.07	$19.64	$24.55	25%	88%	
1642	LIME MFG	$15.00	$18.59	$16.85	$12.40	$13.86	$15.37	11%	102%	
1655	LIME MFG-QUARRY, LIMESTONE-SURFACE	$23.33	$17.75	$18.91	$16.55	$18.20	$25.27	39%	108%	
1699	ROCK WOOL MANUFACTURING	$8.35	$6.68	$6.13	$6.56	$7.28	$7.67	5%	92%	
1701	CEMENT MFG & PLASTER MILL	$8.71	$8.98	$7.77	$3.86	$4.29	$6.43	50%	74%	
1710	STONE CRUSHING-NO QUARRYING-& DRVRS	$25.01	$23.29	$22.84	$9.94	$11.21	$14.28	27%	57%	
1747	TALC MILL/EMERY WORKS & DRIVERS	$7.99	$6.41	$6.47	$8.90	$9.82	$14.73	50%	184%	
1803	STONE CUT/POLISH, SLATE MILL & DRVR	$21.19	$25.08	$26.85	$17.78	$19.74	$23.11	17%	109%	
2002	MACARONI MFG	$19.42	$20.05	$14.97	$9.28	$10.31	$14.29	39%	74%	
2003	BAKERY & RT SPVSR,SALES, DRIVERS	$12.58	$12.28	$11.17	$4.74	$5.32	$7.98	50%	63%	
2014	FEED MFG & GRAIN MILLING	$15.80	$13.07	$10.22	$6.45	$7.20	$10.80	50%	68%	
2016	BREAKFAST FOOD MANUFACTURING	$3.85	$4.08	$4.35	$2.82	$3.13	$3.69	18%	96%	
2030	SUGAR MFG - BEET	$17.57	$18.90	$17.93	$21.54	$23.91	$24.20	1%	138%	
2039	ICE CREAM MFG & SALES, DRIVERS	$11.81	$12.31	$11.33	$8.15	$8.57	$10.56	23%	89%	
2041	CONFECTIONERY MFG	$9.44	$8.61	$7.97	$1.67	$1.88	$2.79	50%	30%	
2070	CREAMERY, BUTTER MFG, MILK DLR & DR	$15.00	$15.09	$17.64	$10.14	$11.46	$14.27	25%	95%	

Code	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG	% NCCI	Note
2081	SLAUGHTERING	$23.28	$24.01	$25.00	$11.78	$11.78	$14.62	24%	63%	
2089	PACKING HOUSE	$20.45	$19.53	$19.71	$14.22	$15.85	$23.77	50%	116%	
2095	MEAT PRODUCTS/SAUSAGE MFG	$23.20	$19.13	$18.82	$10.52	$11.82	$17.73	50%	76%	
2106	FRUIT PACKING	$17.15	$17.75	$19.49	$23.19	$25.74	$25.21	-2%	147%	
2111	CANNERIES N.O.C.	$12.32	$10.67	$9.84	$6.06	$6.06	$9.09	50%	74%	
2112	FRUIT EVAPORATING OR PRESERVING	$16.56	$19.18	$22.83	$14.55	$16.15	$18.66	16%	113%	
2121	BREWERY/MALT HOUSE & DRIVERS	$8.75	$8.58	$8.06	$4.67	$5.19	$7.23	39%	83%	
2130	ALCOHOL MFG/SPIRITOUS LIQUOR DISTIL	$12.52	$15.82	$17.68	$13.20	$14.66	$17.02	16%	136%	
2131	SPIRITOUS LIQUOR BOTTLING	$8.44	$7.16	$6.73	$2.83	$3.15	$4.70	49%	56%	
2143	FRUIT JUICE MFG & WINERY	$15.93	$17.72	$16.50	$7.99	$8.87	$12.45	40%	78%	
2150	ICE MFG	$25.85	$28.74	$27.49	$4.99	$5.56	$8.34	50%	32%	
2156	BOTTLING-NOT CARBONATED/SPIRITOUS	$13.58	$12.94	$11.70	$11.67	$12.96	$14.09	9%	104%	
2157	BOTTLING NOC/CARBONATED BEV MFG NOC	$11.03	$9.21	$9.27	$4.38	$4.38	$5.71	30%	52%	
2286	WOOL SPIN/WEAVE & YARN MFG	$9.29	$9.17	$8.73	$5.29	$5.87	$7.41	26%	80%	
2362	GLOVE/MITTEN/KNIT GOODS MFG NOC	$8.33	$7.66	$6.15	$3.71	$4.12	$5.60	36%	67%	
2380	CORDAGE, NET OR TWINE MFG	$9.70	$9.08	$6.78	$4.49	$5.03	$6.07	21%	63%	
2388	EMBROIDERY MFG	$7.81	$7.92	$8.15	$2.89	$3.21	$4.81	50%	82%	
2501	CLOTHING MFG	$10.34	$9.24	$7.34	$6.57	$7.36	$9.19	25%	89%	
2503	DRESSMAKING TAILRNG CUST	$2.30	$2.27	$1.83	$1.19	$1.32	$1.73	31%	75%	
2570	MATTRESS OR BOX SPRINGS M	$14.27	$14.86	$15.62	$5.58	$6.20	$9.30	50%	65%	
2576	AWNING TENT MFG SHOP ONLY	$12.19	$11.13	$9.70	$3.95	$4.40	$6.60	50%	54%	
2578	BAG/SACK MFG/RENOVATE	$14.19	$12.76	$12.76	$9.60	$10.66	$15.99	50%	113%	
2585	LAUNDRY DRY CLEANING CA	$16.11	$12.89	$9.62	$10.56	$10.93	$14.97	37%	93%	
2586	CLEANING DYEING INCL SALE	$6.81	$5.46	$4.41	$3.35	$3.70	$5.33	44%	78%	
2587	TOWEL & TOILET SPLY CO	$6.59	$7.12	$8.89	$12.16	$13.50	$12.51	-7%	190%	
2589	LAUNDRY & DRY CLEANING RE	$7.17	$7.09	$7.84	$4.30	$4.82	$7.00	45%	98%	
2600	FUR MANUFACTURING	$7.68	$7.58	$7.07	$5.72	$6.37	$7.43	17%	97%	
2623	TANNING LEATHER MFG WOOL	$17.12	$15.59	$14.48	$6.87	$7.63	$10.89	43%	64%	
2670	GLOVE MANUFACTURING	$7.96	$6.75	$5.24	$2.43	$2.69	$4.03	50%	51%	
2683	BAG MANUFACTURING	$11.13	$9.19	$8.09	$7.26	$8.18	$12.09	48%	109%	
2688	LEATHER GOODS MFG NOC	$10.14	$9.85	$10.18	$9.79	$10.91	$12.76	17%	126%	
2702	LOGGING LUMBERING INCLUDI	$84.62	$79.50	$74.40	$37.73	$43.30	$45.71	6%	54%	
2703	LOGGING-EQUIPMENT MAINT	$18.21	$16.22	$16.15	$5.72	$5.72	$8.58	50%	47%	
2710	SAW MILLS	$33.58	$36.36	$28.08	$44.63	$51.22	$40.98	-20%	122%	
2714	VENEER MFG	$10.90	$13.67	$14.79	$6.46	$7.17	$9.85	37%	90%	
2727	LOG HAULING-ALL OPERATION	$26.49	$23.06	$27.85	$11.80	$13.54	$20.31	50%	77%	
2731	PLANING MOULDING MILLS NP	$18.93	$20.26	$19.68	$17.95	$18.23	$14.59	-20%	77%	

Code	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG	% NCCI	Foot Note
2736	PENCIL STOCK MANUFACTURING	$16.80	$15.87	$14.05	$10.17	$11.28	$15.54	38%	93%	
2759	BOX OR BOX SHOOKS MANUFAC	$20.53	$21.38	$20.72	$10.58	$10.93	$14.24	30%	69%	
2790	SHOE - PATTERN-MAKING	$6.41	$5.16	$4.58	$4.42	$4.91	$5.95	21%	93%	
2802	CARPENTRY SHOP ONLY EXCL	$17.97	$16.03	$19.08	$13.29	$15.01	$14.73	-2%	82%	
2812	CABINET WORKS WITH POWER	$13.45	$14.49	$16.08	$8.60	$9.31	$10.85	17%	81%	
2835	BRUSH OR BROOM MFG ASSEMB	$10.15	$8.94	$7.34	$5.51	$6.11	$7.52	23%	74%	
2841	BRUSH HANDLE, SHADE ROLL.	$30.46	$25.81	$19.61	$23.28	$23.28	$27.14	17%	89%	
2881	CABINET WRKS NO PWR DRIVE	$10.64	$9.77	$8.88	$5.23	$5.83	$8.74	50%	82%	
2883	FURNITURE MFG WOOD NOC AS	$20.03	$16.03	$18.68	$12.89	$12.89	$14.67	14%	73%	
2915	VENEER PRODUCTS MFG - VENEER MFG	$7.89	$7.22	$5.90	$4.44	$4.44	$6.66	50%	84%	
2916	VENEER PRODUCTS MFG	$16.42	$14.70	$13.59		$11.03	$13.24	20%	81%	
2923	MUSICAL INSTRUMENT MFG	$8.28	$7.88	$7.39	$3.42	$3.79	$5.42	43%	65%	
2942	PENCIL PENHOLDER OR CRAYO	$6.15	$6.62	$7.45	$2.60	$2.89	$4.33	50%	70%	
2960	TIE POST POLE YARDS WOOD	$38.17	$32.15	$32.81	$20.48	$23.25	$25.46	10%	87%	
3030	IRON OR STEEL WORKS SHOP	$22.88	$24.81	$25.62	$12.52	$13.02	$14.88	14%	85%	
3040	IRON WORKS SHOP ORNAM NOT	$20.89	$20.42	$17.89	$8.34	$9.26	$13.67	48%	65%	
3064	SIGN MFG METAL	$21.79	$21.64	$16.15	$12.78	$12.78	$19.17	50%	88%	
3066	SHEET METAL WORK-SHOP,ETC	$19.55	$21.06	$16.94	$15.24	$17.11	$16.05	-6%	82%	
3076	FIREPROOF EQUIPMENT MFG	$11.12	$14.02	$16.69	$7.02	$7.02	$9.72	38%	87%	
3081	FOUNDRIES IRON NOC	$18.58	$21.16	$25.19	$14.59	$15.33	$17.64	15%	95%	
3085	FOUNDRIES NON FERROUS MET	$18.12	$16.77	$14.59	$2.86	$3.18	$4.77	50%	26%	
3111	BLACKSMITHING NPD	$20.02	$16.02	$11.98	$10.67	$10.67	$16.00	50%	80%	
3113	TOOL MFG NOC NOT DROP OR	$7.89	$7.34	$6.03	$4.68	$5.23	$7.06	35%	89%	
3114	TOOLS MFG NOC MACHINE OR	$10.21	$10.04	$8.86	$7.76	$8.61	$9.76	13%	98%	
3122	CUTLERY MANUFACTURING NOC	$10.70	$12.38	$12.74	$7.87	$8.76	$11.67	33%	109%	
3126	TOOL MANUFACTURING	$13.26	$11.33	$10.43	$8.37	$9.29	$10.70	15%	81%	
3146	HARDWARE, HORSE SHOE & SKATE MFG.	$10.11	$9.87	$9.90		$7.40	$8.79	19%	87%	
3169	STOVE MANUFACTURING	$11.75	$10.31	$8.69	$6.20	$6.88	$8.54	24%	73%	
3179	ELECTRICAL APPARATUS MFG	$5.78	$5.45	$5.33	$3.22	$3.69	$4.05	13%	70%	
3180	ELECTRIC OR GAS LIGHTING FIXTU	$11.98	$10.71	$10.21	$4.53	$5.04	$7.33	45%	61%	
3257	WIRE GOODS MFG	$12.45	$11.17	$10.28	$8.61	$9.56	$10.85	13%	87%	
3315	BRASS/CARTRIDGE MFG	$10.27	$8.74	$8.45	$6.35	$7.05	$8.43	20%	82%	
3336	TYPE FOUNDRIES	$10.45	$11.05	$8.79	$6.26	$7.02	$10.53	50%	101%	
3366	WELDING OR CUTTING NOC IN	$28.30	$28.98	$22.57	$10.79	$10.79	$14.34	33%	51%	
3372	ELECTROPLATING NPD	$14.09	$13.48	$12.09	$6.48	$7.22	$9.85	36%	70%	
3383	JEWELRY MFG	$6.94	$6.84	$6.86	$2.41	$2.67	$4.00	50%	58%	
3400	METAL GOODS MFG	$13.97	$16.09	$17.29	$9.97	$10.42	$13.11	26%	94%	

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ode	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG	% NCCI	Foot Note
3507	AGRICULTURAL MACHINERY MF	$12.44	$11.00	$8.45	$6.07	$6.81	$10.21	50%	82%	
3548	PRINTING MACHINE MFG	$6.26	$5.43	$4.86	$3.52	$3.93	$5.37	37%	86%	
3569	CONFECTION MAHINGE MFG	$13.12	$11.63	$10.97	$9.29	$10.31	$11.56	12%	88%	
3574	ADDING MACHINE,GAS METER	$2.74	$2.79	$2.72	$1.83	$2.04	$2.57	26%	94%	
3612	ENGINE & PUMP MFG NOC	$6.66	$6.78	$6.69	$3.26	$3.62	$5.11	41%	77%	
3620	BOILERMAKING TANK BLDG	$26.56	$21.25	$15.86	$14.42	$14.42	$21.63	50%	81%	
3629	PRECISION MACHINE PARTS MFG.	$6.35	$6.29	$5.68		$4.53	$5.46	21%	86%	
3632	MACHINE SHOPS N O C	$11.08	$11.07	$10.06	$6.25	$7.15	$10.01	40%	90%	
3634	AUTOMATIC SPRINKLER HEAD	$7.73	$7.26	$6.09	$2.26	$2.51	$3.76	50%	49%	
3643	ELECTRIC POWER OR TRANSMI	$6.69	$6.18	$6.38	$4.10	$4.55	$5.49	21%	82%	
3648	AUTOMOTIVE LIGHTING MANUF	$8.24	$7.81	$7.05	$2.29	$2.54	$3.81	50%	46%	
3681	ELEC CORD SET RADIO OR IG	$4.29	$3.73	$3.37	$0.98	$1.10	$1.65	50%	38%	
3686	INSTRUMENT MFG N O C	$3.98	$4.08	$4.38	$4.16	$4.66	$5.00	7%	126%	
3719	OIL STILL ERECTION OR REP	$41.03	$44.59	$47.43	$65.86	$73.10	$69.71	-5%	170%	
3724	MILLWRIGHT WORK NOC INC D	$33.99	$27.69	$29.45	$13.20	$15.15	$13.52	-11%	40%	
3726	BOILER SCALING NPD	$46.59	$32.81	$22.79	$26.82	$26.82	$43.45	62%	93%	
3807	AUTOMOBILE RADIATOR MFG N	$9.04	$9.84	$10.13	$7.09	$7.87	$9.18	17%	102%	
3808	AUTOMOBILE, CARRIAGE OR WAGON	$11.82	$10.42	$7.78	$4.25	$4.72	$6.95	47%	59%	
3821	AUTOMOBILE DISMANTLING IN	$20.66	$17.50	$0.00	$15.84	$17.50	$20.66	18%	100%	2
3824	AUTOMOBILE BODY MFG N O C	$14.87	$15.42	$15.13	$6.55	$7.24	$10.16	40%	88%	
3830	AIRPLANE MFG	$3.94	$3.95	$3.80	$3.47	$3.86	$4.51	17%	114%	
3866	BABY CARRIAGE BICYCLE M	$12.51	$10.60	$10.44	$5.17	$5.74	$7.98	39%	84%	
3881	CAR MANUFACTURING - RAILROAD -	$16.97	$12.94	$0.00	$11.66	$12.94	$16.97	31%	100%	2
4000	SAND & GRAVEL DIGGING INC	$21.04	$16.53	$14.10	$7.86	$8.87	$11.67	32%	65%	
4021	BRICK OR CLAY PRODUCTS MF	$17.06	$17.49	$16.50	$12.99	$14.42	$16.57	15%	97%	
4024	REFRACTORY PRODUCTS & BRICK MF	$25.49	$32.45	$30.74	$9.61	$10.67	$16.00	50%	63%	
4034	CONCRETE PRODUCTS MFG SHO	$26.82	$28.80	$26.72	$14.48	$16.31	$20.98	29%	78%	
4036	PLASTER MIXING AND DRIVERS	$13.31	$11.13	$8.34	$3.92	$4.35	$6.52	50%	49%	
4038	DRESS FORM MFG PAIER MACH	$9.74	$7.82	$8.32	$6.90	$7.67	$8.38	9%	86%	
4063	POTTERY/TERRA COTTA MFG	$9.82	$7.86	$7.08	$5.33	$5.92	$7.02	19%	71%	
4061	POTTERIES GLZD PRCLNWARE	$23.20	$21.29	$16.95	$6.85	$7.64	$11.46	50%	49%	
4112	RADIO AND TELEVISION TUBE	$4.58	$4.22	$3.15	$2.79	$3.10	$3.71	20%	81%	
4130	GLASS MERCHANTS	$13.83	$12.01	$10.34	$5.18	$5.78	$8.00	38%	58%	
4131	MIRROR MFG	$15.25	$12.20	$11.40		$8.80	$10.61	21%	70%	
4133	CATHEDRAL OR ART GLASS WI	$13.22	$10.58	$7.90	$2.98	$3.31	$4.96	50%	38%	
4150	OPTICAL GOOD MFG N O C	$3.47	$3.45	$3.12	$1.81	$2.01	$2.64	31%	76%	
4206	PULP MFG GROUND WOOD PROC	$16.58	$16.89	$15.94	$18.57	$20.63	$21.41	4%	129%	

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de	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG	% NCCI	Foot Note
239	PAPER MFG	$8.63	$9.08	$8.91	$8.38	$9.32	$10.65	14%	123%	
244	CORRUGATED OR FIBER BOARD CONT	$10.67	$12.34	$10.94	$5.56	$6.17	$8.79	42%	82%	
263	FIBER GOODS	$15.27	$15.29	$14.28	$8.11	$9.00	$11.76	31%	77%	
279	PAPERGOODS & MATCH MFG	$9.79	$9.41	$7.93	$5.30	$5.91	$8.86	50%	91%	
299	LITHOGRAPHING PRINTING	$6.04	$5.73	$5.59	$3.15	$3.55	$3.95	11%	65%	
304	NEWSPAPER PUBLISHING	$9.60	$8.84	$8.12	$2.61	$2.91	$4.36	50%	45%	
307	BOOKBINDING	$7.99	$7.39	$6.34	$1.17	$1.30	$1.95	50%	24%	
361	PHOTO ENGRAVING	$2.58	$2.07	$1.93	$0.81	$0.90	$1.35	50%	52%	
362	ENGRAVING	$6.54	$5.57	$4.16	$0.98	$0.98	$1.47	50%	22%	
381	PHOTOGRAPHERS ALL EMP INC	$3.21	$2.88	$2.85	$1.26	$1.40	$2.10	50%	65%	
410	RUBBER GOODS MFG NOC	$11.32	$11.25	$9.78	$12.93	$12.93	$19.39	50%	171%	
462	RUB PLASTIC BONE PRODS BO	$19.99	$18.02	$13.97	$14.79	$16.29	$17.78	9%	89%	
484	R P AND B PROD PLASTICS M	$14.56	$13.94	$13.01	$15.76	$17.62	$18.00	2%	124%	
1511	ANALYTICAL CHEM ASSAYING	$4.21	$4.37	$5.18	$2.78	$3.04	$4.40	45%	105%	
1667	INK,CANDLE,MUCILAGE,PASTE	$8.97	$8.42	$7.42	$3.47	$3.85	$5.77	50%	64%	
1668	PAINT MFG	$8.56	$7.92	$7.88	$2.00	$2.22	$3.33	50%	39%	
1683	FERTILIZER MANUFACTURING	$16.31	$14.06	$11.04	$5.65	$6.31	$9.46	50%	58%	
1836	ACETYLENE GAS MFG	$10.86	$8.88	$8.99	$6.45	$6.45	$9.67	50%	89%	
4806	RENDERING WORKS N O C NO	$30.46	$30.82	$31.76	$17.10	$18.98	$24.33	28%	80%	
4883	LARD REFINING	$9.03	$9.32	$8.18	$6.09	$6.76	$8.17	21%	90%	
4892	DENTAL LABORATORIES	$1.99	$1.69	$1.66	$0.51	$0.57	$0.85	49%	43%	
4893	PHARMACEUTICAL OR SURGICA	$5.11	$4.32	$3.80	$1.54	$1.71	$2.56	50%	50%	
4720	SOAP OR SYNTHETIC DETERGE	$7.78	$6.75	$6.34	$3.65	$4.06	$5.57	37%	72%	
4740	OIL REFINING, GAS RECOVER	$9.09	$7.68	$9.06	$4.05	$4.47	$5.50	23%	61%	
4773	EXPLOSIVES OR AMMUNITION MFG	$31.58	$31.58	$29.88	$38.00	$42.18	$42.12	0%	133%	
4774	SMOKELESS POWDER MFG - SINGLE	$23.06	$23.06	$21.82	$27.09	$30.06	$30.20	0%	131%	
4776	EXPLO/AMMO MFG CASE/CARTRIDGE	$18.74	$18.74	$17.73	$27.39	$30.40	$29.29	-4%	156%	
4777	EXPLOSIVES/BLASTING AGTS	$19.33	$15.47	$11.55	$12.90	$14.32	$15.84	11%	82%	
4803	CHEMICAL AND DYESTUFF	$10.74	$9.58	$29.74	$11.03	$12.33	$14.65	19%	136%	9
4815	CHEMICAL AND DYESTUFF RAT	$8.60	$7.84	$7.20	$3.68	$4.12	$5.98	45%	70%	9
4823	CHEMICAL MFG	$7.64	$6.82	$5.18	$0.93	$1.03	$1.54	50%	20%	9
4826	DRUG, MEDICINE, DISTILLATION	$3.01	$3.23	$3.48	$3.69	$4.12	$4.16	1%	138%	
4902	FISHING ROD, HARNESS, SPTG GDS	$7.57	$6.06	$4.73	$6.11	$6.85	$8.88	30%	117%	
5020	CEILING INST-SUSP ACC GRID TYP	$25.64	$22.78	$20.95	$6.85	$7.62	$11.46	50%	45%	
5022	MASONRY N O C	$80.80	$66.87	$46.44	$36.86	$38.13	$43.04	13%	53%	
5037	PAINTING METAL BRIDGES	$152.58	$114.84	$88.62	$19.86	$22.04	$34.09	55%	22%	
5040	IRON OR STEEL ERECTION FR	$132.01	$143.48	$152.63	$92.62	########	$157.66	52%	119%	

Code	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG	% NCCI	Foot Note
5057	IRON OR STEEL ERECTION NO	$84.62	$82.46	$66.24	$42.86	$47.95	$60.62	26%	72%	
5069	IRON STEEL ERECT FRAME ST	$118.03	$101.84	$75.80	$61.31	$64.68	$90.44	40%	77%	
5069	IRON STEEL ERECT DWELLING	$165.20	$138.96	$107.67	$69.92	$77.61	$103.70	34%	63%	
5086	IR STL ERECT PREFAB ST BL	$120.19	$88.04	$0.00	$88.04	$88.04	$120.19	37%	100%	4E
5102	DOOR DR FRAM SASH ERECT M	$28.03	$24.49	$19.49	$7.98	$8.86	$13.37	51%	48%	
5146	FURN FIXTURE INSTALLIN OF	$19.32	$15.49	$12.96	$3.48	$3.89	$6.02	55%	31%	
5160	ELEVATOR ERECTION OR REPA	$17.89	$14.97	$12.59	$6.33	$7.03	$10.40	48%	58%	
5183	PLUMBING NOC,STEAM PIPE	$23.65	$16.66	$17.72	$9.53	$10.21	$12.05	18%	51%	
5188	AUTOMATIC SPRINKLER INSTA	$20.54	$16.40	$11.39	$6.67	$7.45	$10.41	40%	51%	
5190	ELECTRICAL WIRING WITHIN	$14.91	$12.50	$8.84	$6.10	$6.98	$7.30	5%	49%	
5191	OFC MCH OR APPLNCE INSTAL	$3.22	$3.51	$3.61	$2.59	$2.90	$3.23	11%	100%	
5192	VEND COIN OPER MCH INSTAL	$13.61	$10.80	$8.34	$4.77	$4.86	$6.45	33%	47%	
5213	CONCRETE CONST.-GUNITING	$38.25	$26.94	$28.65	$17.54	$17.63	$22.08	25%	58%	
5216	CONCRETE WK NOT MONO CON	$29.84	$29.60	$23.58	$17.54	$17.63	$22.08	25%	74%	
5221	CON CEMENT WK FLRS DRWYS	$29.36	$21.80	$18.96	$17.54	$17.63	$22.08	25%	75%	
5222	CONCRETE CONST.-BRIDGES	$57.49	$62.48	$43.39	$29.25	$32.38	$40.85	26%	71%	
5223	SWIMMING POOL CONST - NOT IRON/STL	$27.17	$21.53	$17.75	$11.54	$12.81	$16.66	30%	61%	
5348	MARBLE OR STONE SETTING I	$17.89	$14.92	$12.43	$3.88	$4.31	$6.49	51%	36%	
5403	CARPENTRY NOC, OIL RIG ER	$48.23	$41.04	$35.89	$20.89	$23.98	$33.22	39%	69%	
5437	CARPENTRY INSTALL CABINET	$24.28	$18.89	$13.12	$7.52	$7.52	$11.47	53%	47%	
5443	LATHING INCL DRIVERS NO M	$29.84	$31.76	$24.20	$14.17	$15.75	$22.92	46%	77%	
5446	WALLBOARD INSTALL WITHIN	$32.97	$33.65	$30.91	$18.30	$20.25	$28.19	39%	86%	
5462	GLAZIERS AWAY FROM SHOP I	$29.77	$22.60	$15.70	$10.91	$11.98	$16.79	40%	56%	
5474	PAINTING PAPER HANGING NO	$43.70	$45.10	$38.31	$21.67	$23.62	$28.89	22%	66%	
5479	INSULATION WORK INCLUDING	$30.79	$32.08	$27.52	$15.97	$15.97	$21.98	38%	71%	
5480	PLASTERING N O C INCL DRI	$35.67	$30.90	$25.41	$13.25	$14.71	$21.85	49%	61%	
5481	PAPER HANGING AND DRIVERS	$16.76	$12.87	$10.17	$9.21	$10.22	$11.97	17%	71%	
5506	ST ROAD CONSTR PAV REPAV	$41.18	$33.17	$25.22	$17.53	$20.12	$19.48	-3%	47%	
5507	ST ROAD CONSTR CL RT WAY	$31.95	$29.83	$24.04	$14.89	$17.09	$25.78	51%	81%	
5508	ST ROAD CONSTR ROCK EXCA	$41.74	$29.40	$27.57	$14.97	$14.97	$22.45	50%	54%	
5511	ROAD CONST-FOREST ACCESS	$52.23	$56.77	$39.43	$27.68	$31.77	$25.42	-20%	49%	
5538	METAL CEILING WALL COV IN	$19.63	$20.32	$19.22	$8.97	$10.12	$8.10	-20%	41%	
5551	ROOFING ALL KINDS INCLUDI	$82.57	$61.15	$42.47	$39.72	$42.78	$58.29	36%	71%	
5606	CONTRACTORS EXECUTIVE SUP	$6.90	$5.86	$4.68	$1.50	$1.50	$2.25	50%	33%	
5646	CARPENTRY CONST OF DETACH	$28.56	$23.57	$19.72	$14.28	$16.08	$19.35	20%	68%	
5651	CARPENTRY CONST OF DWLGS	$40.73	$28.69	$19.93	$14.28	$16.08	$19.35	20%	48%	
5703	BLDGS RAISG MOVEG ALL OPE	$83.74	$73.71	$65.12	$41.51	$46.31	$65.53	42%	78%	

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Code	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG	% NCCI	Foot Note
6706	SALV REM STORE REC DISTR	$38.94	$32.45	$0.00	$29.24	$32.45	$38.94	20%	100%	2
6951	SERUM, ANTI-TOXIN MFG AND DRIV	$4.26	$5.51	$5.37	$3.50	$3.88	$5.10	31%	120%	
6003	PILE DRIVING INCLUDING DR	$69.09	$63.20	$49.62	$25.13	$27.98	$43.27	55%	63%	
6005	DIKE JETTY CONST	$31.51	$31.43	$29.47	$6.15	$6.83	$10.24	50%	32%	
6017	DAM OR LOCK CONSTR CONCRE	$71.34	$50.24	$53.44	$13.57	$15.06	$22.76	51%	32%	
6018	DAM OR LOCK CONSTRUCTION	$30.71	$33.12	$26.39	$20.47	$22.79	$32.09	41%	104%	
6046	LEVEE CONSTRUCTION INCLUD	$38.78	$31.00	$23.54	$11.40	$12.65	$18.97	50%	49%	
6204	DRILLING NOC INCL DRIVERS	$42.34	$29.82	$20.71	$23.09	$26.41	$31.04	18%	73%	
6206	OIL GAS WELLS ACIDIZING A	$18.56	$13.41	$10.67	$7.41	$8.22	$10.59	29%	57%	
6213	OIL OR GAS WELLS SPEC TOO	$24.80	$19.60	$19.73	$30.41	$33.75	$31.87	-6%	129%	
6214	OIL OR GAS WELLS PERFOR O	$27.97	$22.76	$17.07	$3.99	$4.43	$6.64	50%	24%	
6216	OIL OR GAS LEASE WORK NOC	$26.41	$22.48	$19.19	$9.55	$10.88	$16.32	50%	62%	
6217	EXCAVATING GRADING OF L	$33.62	$33.84	$25.31	$16.63	$19.09	$23.75	24%	71%	
6229	IRRIGATION OR DRAINAGE SY	$25.33	$23.27	$17.23	$16.08	$18.11	$21.99	21%	87%	
6233	OIL OR GAS PIPE LINE CONS	$37.27	$36.95	$25.31	$13.67	$15.24	$22.92	50%	61%	
6235	OIL/GAS WELL-DRILL OR SHO	$49.97	$40.24	$28.06	$30.20	$30.20	$45.30	50%	91%	
6236	OIL OR GAS WELLS INSTALL	$90.06	$89.42	$73.83	$33.93	$37.66	$56.49	50%	63%	
6237	OIL GAS WELLS INSTRMT LOG	$13.74	$11.17	$8.27	$3.48	$3.86	$5.79	50%	42%	
6251	TUNNELING-NOT PNEUMATIC	$55.70	$39.43	$33.18	$24.86	$27.60	$33.64	22%	60%	
6252	CAISSON,COFFERDAM,SHAFT	$61.35	$43.21	$33.06	$17.48	$17.48	$27.86	59%	45%	
6260	TUNNELING - PNEUMATIC - ALL OP	$23.24	$19.37	$0.00	$17.45	$19.37	$23.24	20%	100%	2
6306	SEWER CONST ALL OPER INCL	$27.32	$26.19	$24.57	$14.46	$15.10	$19.66	30%	72%	
6319	GAS MAINS OR CONNECTING C	$24.61	$23.51	$19.55	$14.46	$15.10	$19.65	30%	80%	
6325	CONDUIT CONSTRUCTION FOR	$26.73	$20.30	$20.83	$9.07	$10.19	$15.48	52%	58%	
6365	IRRIGATION PIPE INSTALATION &	$11.75	$11.61	$8.94	$3.65	$4.05	$6.11	51%	52%	
6400	FENCE ERECTION NOT FARM I	$34.96	$30.83	$27.55	$20.15	$22.58	$24.96	11%	71%	
6504	FOOD SUNDRIES MFG N O C N	$12.10	$11.40	$9.32	$15.56	$17.45	$19.87	14%	164%	
6834	BOAT BUILDING OR REPAIR	$16.14	$14.14	$13.01	$5.81	$6.46	$9.47	47%	59%	
6836	MARINA & DRIVERS	$14.20	$11.88	$11.46	$7.49	$8.32	$10.24	23%	72%	
7133	RAILROAD OPERATION NOC-ALL EMP	$14.36	$10.56	$11.11	$7.01	$7.78	$9.30	20%	65%	
7219	TRAILER TOWING TRUCKMAN	$38.34	$29.48	$27.48	$16.65	$19.11	$25.01	31%	65%	
7222	TRUCKMEN OIL FIELD EQUIPM	$34.05	$28.60	$33.59	$25.95	$25.95	$28.97	12%	85%	
7230	PARCEL POST TRUCKMEN	$9.16	$6.74	$5.19	$5.96	$6.49	$9.73	50%	106%	
7231	MAIL DELIVERY TRUCKMEN	$13.62	$11.10	$9.43	$4.90	$5.46	$7.89	45%	58%	
7360	FREIGHT HANDLERS N O C	$22.32	$21.73	$22.03	$13.80	$14.63	$16.69	14%	75%	
7362	FREIGHT HANDLERS PACK HAN	$22.32	$21.73	$22.03	$8.65	$9.61	$16.69	74%	75%	18
7380	DRIVERS CHAUFFEURS HELP	$9.98	$10.29	$12.86	$3.74	$3.74	$5.35	43%	54%	

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	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG	% NCCI	Foot Note
12	AUTO BUS LIVERY TAXI CO A	$14.67	$11.80	$10.46	$6.25	$6.27	$9.26	48%	63%	
10	BEER OR ALE DEALERS INCLU	$16.79	$16.36	$12.72	$8.66	$9.82	$11.86	21%	71%	
16	DIVING-MARINE-ALL OPS & DR	$33.23	$29.33	$21.66	$29.56	$32.81	$34.31	5%	103%	
03	AIRCRAFT OPER SCHED AIRLI	$4.93	$5.24	$5.48	$3.33	$3.70	$4.49	21%	91%	
06	AIRCRAFT OPER SCHED ALL F	$2.16	$1.87	$1.84	$7.71	$6.65	$7.07	-17%	327%	
18	AIRCRAFT OPER PATROL ETC	$17.43	$17.21	$19.14	$5.89	$6.54	$9.81	50%	56%	
19	STATE AIR SEARCH	$7.05	$6.53	$0.00	$5.88	$6.53	$7.05	8%	100%	3B
20	AIRCRFT OPER DUST SPRAY S	$30.17	$32.19	$33.42	$20.64	$22.91	$27.75	21%	92%	
21	AIRCRAFT OPER TRANS OF PE	$8.15	$7.57	$8.01	$4.28	$4.78	$6.23	30%	76%	
22	AIRCRAFT OPER SALES SERVI	$37.24	$31.08	$23.91	$27.13	$28.22	$22.84	-19%	61%	
23	AIRCRAFT OPER NOC ALL OTH	$7.35	$6.01	$5.45	$3.23	$3.61	$4.76	32%	65%	
24	STATE AIRCRAFT OPERATION	$18.94	$22.42	$0.00	$22.42	$22.42	$18.94	-16%	100%	3B
26	AIRCRFT OPER HELICOPTERS	$37.37	$34.42	$0.00	$31.01	$34.42	$37.37	9%	100%	2
31	AIRCFT OPER PASS OR AIRCA	$13.87	$10.20	$9.60	$5.54	$6.15	$7.95	29%	57%	
02	GAS CO NATRL GAS ALL OPER	$6.89	$5.07	$5.12	$1.96	$2.21	$2.99	35%	43%	
16	OIL OR GAS PIPE LINE OPER	$8.44	$7.18	$5.53	$3.43	$3.75	$5.16	38%	61%	
20	WATERWORKS OPERATION INCL	$9.21	$9.62	$8.62	$5.19	$5.40	$8.10	50%	88%	
36	CABLE INSTALLATION IN CON	$14.91	$12.60	$8.84	$1.36	$1.51	$7.30	383%	49%	1B
38	ELEC LIGHT/POWER LINE CON	$42.70	$33.49	$23.26	$18.72	$21.49	$17.22	-20%	40%	
39	ELEC LGHT OR PWR CO NOC A	$7.89	$6.53	$5.03	$2.17	$2.42	$3.63	50%	46%	
40	ELEC LGHT PWR COOPS RURAL	$8.31	$6.94	$5.34	$2.23	$2.23	$3.34	50%	40%	
80	SEWAGE DISPOSAL PLANT OP & DRIVERS	$11.18	$9.93	$10.49		$6.48	$8.10	25%	72%	
00	TEL OR TEL CO ALL OTHER E	$6.05	$4.69	$3.61	$2.30	$2.58	$3.69	43%	61%	
01	TEL TEL OR FIRE ALARM LIN	$61.46	$58.31	$51.78	$23.21	$26.03	$39.98	54%	65%	
06	BURGLAR/FIRE ALARM, REP	$7.86	$6.17	$5.79	$2.07	$2.30	$3.45	50%	44%	
10	RADIO/TV STATION & MOVIES	$1.60	$1.18	$1.15	$0.53	$0.57	$0.85	49%	53%	
04	FIREMEN INCLUDING DRIVERS	$4.35	$4.07	$10.19	$6.41	$6.41	$5.91	-8%	136%	5B
20	POLICEMEN OR PATROL AGENC	$6.38	$5.88	$6.94	$7.81	$8.37	$10.29	23%	161%	5B
21	STATE ONLY DISCIPL OFF IN	$6.40	$4.27	$0.00	$3.76	$4.27	$6.40	50%	100%	3A
22	STATE HIGHWAY PATROL	$4.64	$4.57	$0.00	$4.57	$4.57	$4.64	2%	100%	3B
66	RYW CONST LAY RELAY TRACK	$34.93	$28.35	$24.54	$11.69	$13.01	$19.58	50%	56%	
01	STORES FLORISTS INCLUDING	$4.35	$3.92	$3.51	$1.30	$1.46	$2.19	50%	50%	
02	AUTO RENTAL CO INCL DRIVERS	$6.28	$4.62	$4.04	$1.18	$1.32	$1.98	50%	32%	
06	STORES GROC RET NO HANDLI	$10.06	$11.48	$10.88	$4.95	$5.65	$8.16	44%	81%	
08	STORES CLOTHING WEARING A	$2.95	$2.60	$2.43	$1.29	$1.45	$2.17	50%	74%	
10	STORES HRDWE WHOLESALE OR	$4.62	$5.20	$4.64	$2.28	$2.39	$2.99	25%	65%	
13	STOR JEWELRY DIAMOND CUTT	$1.75	$1.29	$1.28	$0.54	$0.60	$0.90	50%	51%	

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8017	STORE:NOC/LAUNDRY/SHOE RE	$3.66	$3.61	$3.37	$1.48	$1.69	$1.75	4%	48%	
8018	STORE WHOLESALE OR COMB	$9.67	$7.65	$5.81	$4.58	$4.58	$6.87	50%	71%	
8021	STORES MEAT FISH OR POULT	$14.78	$11.97	$9.88	$6.22	$6.97	$10.45	50%	71%	
8031	STORES MEAT FISH OR POULT	$17.82	$13.41	$11.21	$12.12	$12.96	$15.76	22%	88%	
8032	STORES CLOTH WEAR APP OR	$7.07	$6.83	$6.79	$2.59	$2.88	$4.32	50%	61%	
8033	STORES MEAT GROC PROD COM	$9.85	$9.00	$8.21	$4.13	$4.74	$5.04	6%	51%	
8039	STORES DEPT RETAIL INCL S	$7.19	$5.39	$4.33	$2.99	$3.32	$4.26	28%	59%	
8044	STORES FURNITURE WHOLESAL	$9.81	$8.80	$6.77	$5.81	$6.48	$9.39	45%	96%	
8046	STORES AUTO ACCESS RETAIL	$6.33	$4.95	$3.81	$2.05	$2.28	$3.42	50%	54%	
8047	STORES DRUG STORES WHOLES	$7.29	$6.39	$5.21	$2.74	$3.04	$4.37	44%	60%	
8050	STORES FIVE AND TEN CENT	$4.25	$4.19	$3.61	$1.66	$1.85	$2.77	50%	65%	
8061	GROCERY STORE - CONVENIENCE	$10.06	$11.48	$10.88	$4.98	$5.56	$7.15	29%	71%	10A
8102	BEAN SORTING OR HANDLING	$14.23	$11.45	$10.76	$5.81	$5.81	$8.71	50%	61%	
8103	CLIPPNG DLERS TEXTILE FAB	$13.23	$12.02	$10.91	$2.92	$3.24	$4.86	50%	37%	
8105	STORES HIDE OR LEATHER DE	$29.50	$23.41	$18.01	$4.16	$4.65	$6.97	50%	24%	
8106	IRON OR STEEL MERCHANTS I	$17.19	$15.03	$14.83	$7.82	$8.74	$11.79	35%	69%	
8107	CONTRACTORS MACHINERY DEA	$10.81	$11.88	$10.05	$4.84	$4.84	$5.59	15%	52%	
8111	PLMBRS SPLY DLRS NO MFG I	$10.81	$8.74	$7.80	$3.85	$4.32	$6.14	42%	57%	
8116	FARM MACH DLRS ALL OPER I	$11.75	$11.61	$8.94	$4.91	$5.21	$7.16	37%	61%	
8203	ICE HARVESTING & DEALERS	$17.33	$16.81	$16.49	$4.61	$5.13	$7.69	50%	44%	
8204	BLDG MAT YDS SECOND HAND	$31.80	$26.53	$29.61	$15.39	$17.08	$22.14	30%	70%	
8209	VEG PACKING NOT CANNERIES	$17.55	$14.94	$12.11	$9.49	$10.54	$12.81	22%	73%	
8216	HAY GRAIN OR FEED DEALERS	$14.68	$13.30	$14.97	$11.02	$12.20	$15.13	24%	103%	
8227	CONCRETE READY MIX DEALER	$18.21	$16.22	$16.15	$8.27	$9.49	$7.98	-16%	44%	
8232	BLDG MAT DLRS NO SEC HAND	$16.07	$12.96	$12.32	$8.08	$9.27	$11.44	23%	71%	
8233	COAL MERCHANTS INCL LOCAL	$32.17	$28.71	$24.51	$4.49	$4.98	$7.47	50%	23%	
8236	SASH DOOR OR FINISHED MIL	$14.53	$11.83	$11.77	$9.52	$10.57	$12.15	15%	84%	
8263	JUNK DEALERS INCLUDING DR	$24.21	$23.64	$25.62	$10.87	$11.36	$14.60	29%	60%	
8264	BTLE DLRS SEC HAND NO COL	$27.90	$25.80	$31.45	$19.41	$21.60	$32.40	50%	116%	
8265	IRON STEEL SCRAP DEALERS	$37.38	$38.82	$38.15	$20.52	$23.38	$29.87	28%	80%	
8279	STABLE,BREEDING FARMS/RID	$56.25	$51.74	$59.91	$37.19	$41.53	$49.65	20%	88%	
8280	OUTFITTERS, GUIDES AND DRIVERS	$28.74	$29.68	$0.00	$26.41	$29.68	$28.74	-3%	100%	4A
8288	CTLE DLRS NOT OPER FARM R	$25.44	$18.71	$18.37	$13.26	$15.02	$19.24	28%	76%	
8291	STORAGE WAREHOUSES COLD	$16.76	$14.66	$13.08	$6.11	$6.80	$10.09	48%	60%	
8292	STORAGE WAREHOUSES GENL M	$18.29	$15.48	$15.98	$12.08	$12.60	$17.04	35%	93%	
8293	FURNITURE MOVING INCL STO	$31.42	$31.72	$37.30	$16.48	$18.70	$21.16	13%	67%	
8304	GRAIN ELEVATORS OPER INCL	$13.36	$10.82	$8.55	$6.92	$7.69	$8.97	17%	67%	

	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG	% NCCI	Foot Note
0	GASOLINE,OIL OR LPG DEALE	$13.17	$9.69	$7.46	$4.74	$5.36	$8.04	50%	61%	
10	AUTOMOBILE REPAIR	$11.56	$13.44	$12.58	$6.40	$6.92	$7.39	7%	64%	10B
11	GASOLINE STATION-RETAIL-SELF S	$7.35	$6.78	$6.66	$6.52	$7.31	$8.76	20%	119%	
16	AUTO BUS LIVERY TAXI CO G	$12.28	$11.85	$12.44	$3.76	$4.19	$6.28	50%	51%	
12	AUTO STORAGE GARAGE PARK	$8.64	$7.37	$6.56	$3.35	$3.72	$5.20	40%	81%	
13	AUTO BODY REPAIRING MTL I	$9.10	$7.51	$8.23	$4.71	$5.32	$7.14	34%	78%	
21	ENGINEERS ARCHITECTS CONS	$2.95	$2.25	$2.38	$1.13	$1.28	$1.91	49%	65%	
36	OIL GAS GEOLOGISTS SCOUTS	$2.95	$2.25	$2.38	$2.00	$2.22	$1.91	-14%	65%	1B
08	GEOPHYSICAL EXPLOR SEISMI	$24.51	$28.49	$35.61	$6.09	$6.79	$10.18	50%	42%	
07	GEOPHYSICAL EXPLOR N O C	$9.98	$10.29	$12.86	$1.79	$1.99	$5.35	169%	54%	1B
19	FIELD BONDED WAREHOUSING	$8.56	$7.81	$6.01	$1.11	$1.24	$1.86	50%	22%	
20	INSP RISKS INSURANCE VALU	$4.73	$4.54	$4.13	$1.88	$2.09	$3.09	48%	65%	
42	SALESMEN COLLECTORS ADJUS	$1.63	$1.36	$1.29	$0.71	$0.72	$0.78	8%	48%	
43	MUNICIPAL STATE TRAVEL	$0.73	$0.58	$0.00	$0.46	$0.51	$0.58	14%	79%	5A
44	STATE HOSPITAL, PROFESSIONAL /	$0.69	$0.56	$0.00	$0.49	$0.56	$0.69	23%	100%	3B
45	NEWS AGENTS DISTR NOT RET	$10.43	$9.23	$8.85	$6.94	$7.73	$9.71	26%	93%	
48	AUTO BOAT SALES OR SERV	$2.78	$2.05	$1.58	$1.66	$1.75	$2.31	32%	83%	
65	LABOR UNIONS ALL EMP INCL	$3.02	$2.85	$2.40	$2.53	$2.83	$3.38	19%	112%	
00	MAIL OR ADDRESSING CO	$6.13	$5.67	$5.11	$0.44	$0.49	$0.73	49%	12%	
03	AUDITORS ACCS FACTORY CO	$0.62	$0.60	$0.58	$0.50	$0.50	$0.75	50%	121%	
10	CLERICAL OFFICE/LIB/MUSM	$0.75	$0.87	$0.94	$0.39	$0.44	$0.55	25%	73%	
11	STATE CLERICAL OFFICE EMPLOYEE	$0.70	$0.56	$0.00	$0.49	$0.56	$0.70	25%	100%	3B
29	CONVALESCENT NRSG HOMES A	$27.86	$25.69	$25.80	$13.11	$15.05	$17.99	20%	65%	
30	MUNICIPAL: NURSING HOME	$17.99	$15.05	$0.00	$13.11	$15.05	$17.99	20%	100%	4B
31	HOSPITALS VETERINARY INCL	$4.99	$4.73	$5.27	$3.09	$3.47	$4.68	35%	94%	
32	DENTIST OR PHYSICIAN	$1.26	$0.84	$0.73	$0.86	$0.87	$1.05	8%	83%	
33	HOSPITALS PROFESSIONAL EM	$6.52	$4.80	$4.28	$3.73	$3.94	$5.02	27%	77%	
34	STATE ASYL HOSP SP SCHS N	$16.51	$11.66	$0.00	$11.38	$11.66	$16.51	42%	100%	3A
35	PUBLIC HLTH NURSING ASSOC	$13.51	$11.00	$12.04	$8.46	$9.13	$13.69	50%	101%	
36	MUNICIPAL HOSP - PROFESSIONAL EMP	$4.26	$3.94	$0.00	$3.73	$3.94	$4.26	8%	100%	4C
37	CHARITABLE REL ORGN WELFA	$5.14	$4.77	$0.00	$4.58	$4.77	$5.14	8%	100%	2
38	COMMUNITY SERVICE WORKERS	$8.58	$7.00	$0.00		$7.00	$8.58	23%	100%	4D
88	COLLEGE/SCHOOL/CHURCH	$0.35	$0.26	$0.47	$0.34	$0.36	$0.48	33%	137%	7
89	STATE COLLEGE, PROFESSIONAL AN	$0.22	$0.27	$0.00	$0.27	$0.27	$0.22	-19%	100%	3B
01	TELEPHONE TELEGRAPH CO OF	$0.92	$0.98	$1.03	$0.28	$0.31	$0.46	48%	50%	
14	BUILDINGS OPERATION BY CO	$13.85	$16.10	$16.00	$6.71	$7.33	$8.90	21%	64%	
15	BUILDINGS OPERATED BY OWN	$12.74	$9.37	$10.12	$5.59	$6.39	$6.06	-5%	48%	

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ode	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG	% NCCI	Foot Note
0016	AMUSE PARKS EXHIB MUSICIA	$11.19	$10.49	$10.93	$6.52	$7.24	$9.09	26%	81%	
0023	BLDGS DWG COMM BY OWNER	$7.01	$6.49	$0.00	$5.84	$6.49	$7.01	8%	100%	4F
0040	HOSPITALS ALL OTHER EMPLO	$10.43	$10.44	$11.53	$4.95	$5.68	$8.06	42%	77%	
0041	MUNICIPAL HOSPITAL - ALL OTHER EMP	$6.82	$5.68	$0.00	$4.95	$5.68	$6.82	20%	100%	4C
0062	HOTEL/MOTEL,CAMP/DUDE RAN	$10.49	$11.88	$11.09	$6.05	$6.94	$8.99	30%	86%	
0080	CLUBS CNTY GOLF FISHING Y	$6.33	$6.26	$6.92	$3.05	$3.06	$4.59	50%	73%	
0081	CLUBS N O C INCL CLERICAL	$8.10	$9.41	$9.76	$6.10	$6.10	$6.46	6%	80%	
0083	EXERCISE/HEALTH OR BATH I	$3.36	$3.17	$3.32	$2.00	$2.18	$2.56	17%	76%	
0079	RESTAURANT,BAR,HOUSEHOLD	$6.94	$6.59	$6.99	$3.97	$4.55	$5.12	13%	74%	
0088	FIREWORKS EXHIBITION INCL	$35.87	$30.46	$0.00	$27.44	$30.46	$35.87	18%	100%	2
0089	BILLIARD HALLS NO BOWLING	$5.51	$5.42	$5.46	$2.32	$2.57	$3.80	48%	69%	
0093	BOWLING LANE	$4.38	$4.08	$5.10	$4.23	$4.23	$4.10	-3%	94%	
0100	COLLEGE/SCHOOL: APPR. TRA	$2.41	$2.18	$0.00	$1.97	$2.18	$2.41	11%	100%	4E
0101	COLLEGES ALL OTHER EMPLOY	$6.30	$4.98	$10.33	$5.66	$6.49	$8.32	28%	132%	7
0102	PARKS N O C ALL EMPLOYEES	$11.25	$10.96	$11.93	$11.46	$12.83	$15.90	24%	141%	
0103	STATE COLLEGE, ALL OTHERS	$7.13	$4.89	$0.00	$4.84	$4.89	$7.13	46%	100%	3B
0104	STATE VO-TECH STUDENTS	$4.79	$4.70	$0.00	$4.70	$4.70	$4.79	2%	100%	3B
0154	THEATRES ALL OTHER EMPS	$4.42	$4.24	$4.14	$1.28	$1.43	$2.14	50%	48%	
0156	THEATRES PLAYERS ENTERTAI	$4.76	$4.66	$3.97	$3.21	$3.57	$4.30	20%	90%	
0178	ATHLETIC TEAM - NON CONT	$39.47	$38.39	$29.87	$39.73	$44.31	$47.88	8%	121%	
0179	ATHLETIC TEAM - CONTACT	$45.72	$40.35	$31.04	$39.73	$44.31	$53.17	20%	116%	
0180	AMUSEMENT PARKS EXHIBITIO	$26.87	$31.24	$25.94	$16.93	$16.93	$14.75	-13%	55%	
0182	ATHL TMS PARKS CARE OPERA	$9.85	$9.84	$7.57	$1.90	$2.10	$3.15	50%	32%	
0186	CARNIVALS CIRCUSES AMUS D	$50.92	$48.94	$60.74	$30.83	$34.23	$44.57	30%	88%	
0220	CEMETERY OPERATIONS INCL	$13.58	$12.89	$13.97	$6.47	$7.22	$9.62	33%	71%	
0402	STREET SEWAGE CLEANING	$32.61	$24.14	$18.57	$19.34	$19.66	$24.08	23%	74%	
0403	GARBAGE ASHES REFUSE COLL	$26.87	$20.41	$24.75	$18.44	$20.67	$20.89	1%	78%	
0404	GARBAGE/REFUSE COLLECTION-MECH	$13.44	$10.21	$12.38	$14.33	$14.87	$15.97	7%	119%	1A
0410	MUNICIPAL TNSP CNTY EMPLO	$6.79	$6.00	$11.46	$5.13	$5.13	$5.37	5%	79%	5B
0411	STATE EMPLOYEES SPECIAL H	$2.67	$2.47	$0.00	$2.47	$2.47	$2.67	8%	100%	3A
0412	STATE ADMINISTRATIVE OR NON-PR	$3.88	$4.84	$0.00	$4.84	$4.84	$3.88	-20%	100%	3B
0420	MUNICIPAL TNSP CNTY STATE	$6.79	$5.82	$12.21	$7.06	$7.96	$8.45	6%	124%	5B
0421	STATE EMPLOYEES SPECIAL H	$6.72	$5.97	$0.00	$5.20	$5.97	$6.72	13%	100%	3A
0422	STATE ALL OTHERS	$6.50	$5.83	$0.00	$5.83	$5.83	$6.50	11%	100%	3B
0424	MUNICIPAL RELIEF WORKERS	$4.28	$4.11	$0.00	$5.90	$5.90	$7.49	27%	175%	6
0425	STATE RELIEF WORKERS	$3.79	$3.90	$0.00	$3.90	$3.90	$3.79	-3%	100%	3B
0501	PAINTING SHOP ONLY INCL D	$11.19	$10.28	$9.36	$4.15	$4.62	$6.93	50%	62%	

Code	Description	NCCI FY 93	NCCI FY 92	NCCI FY 91	SF RATES EFFECTIVE: 07/91	01/92	07/92	% CHG	% NCCI	Foot Note
9505	AUTO PAINTING	$11.38	$10.01	$8.60	$5.53	$6.14	$9.21	50%	81%	
9519	RADIO TV HOUSEHLD APPLI I	$6.87	$6.62	$8.27	$3.71	$3.98	$5.01	27%	73%	
9521	HOUSE FURNISHINGS INST DR	$28.22	$23.92	$22.30	$20.28	$22.80	$34.21	50%	121%	
9522	AUTOMOBILE UPHOLSTERING	$6.07	$5.53	$4.57	$2.92	$3.25	$4.87	50%	80%	
9529	CONC TOWER/ELEVATOR INSTALL RE	$65.63	$46.77	$0.00	$42.14	$46.77	$65.63	40%	100%	2
9534	MOBILE CRANE SERVICE	$38.34	$29.48	$27.48	$26.07	$29.24	$29.00	-1%	76%	10C
9545	BILL POSTING INCL DRIVERS	$54.54	$56.65	$60.26	$4.01	$4.46	$6.69	50%	12%	
9549	ADVERTISING-SIGN PAINTING	$37.50	$26.77	$20.11	$13.50	$13.50	$20.25	50%	54%	
9552	SIGN MFG ERECT REPAIR MAI	$20.53	$20.01	$18.87	$7.55	$8.45	$13.02	54%	63%	
9586	BARBER SHOPS BEAUTY PARLO	$2.57	$2.57	$2.35	$2.04	$2.28	$2.77	21%	108%	
9600	TAXIDERMISTS	$8.00	$8.21	$8.26	$0.84	$0.93	$1.39	49%	17%	
9610	MOTION PICTURE (NEW 7/1/92)	$4.42	$1.18	$1.15	$0.53	$0.57	$2.14	275%	48%	10E
9620	FUNERAL DIRECT CREMATORY	$6.05	$4.45	$3.43	$2.52	$2.68	$4.02	50%	66%	
9901	HORSE RACING-LISENED OWNER, ONER/TR	$49.65	$41.53	$0.00	$37.19	$41.53	$49.65	20%	100%	4C
9903	CHRISTMAS TREE GROWING & HARVESTING	$30.44	$30.18	$23.22	$17.45	$19.77	$26.46	34%	87%	10F
	Percent of NCCI or Other Rate:				58%	65%	70%			

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Let's all hope leaders recall the last game

Missoulian 1-3-93

Our leaders always talk a good game when they fix the workers compensation system.

Take the last time they fixed it, for example.

They decided to give the state-run program a fresh start – it would be granted a new identity and immunity from prosecution. It was reorganized as a start-up business – essentially debt-free, but with working capital, customers and a near monopoly on certain lines of business.

This new fund would be a "non-profit, independent public corporation." Ray Conger, a prominent Montana expert on workers compensation, was chosen by the governor to be the first chairman of the board. Conger and others stressed the importance of having rates that would be high enough to cover the cost of claims; previously, the state program had gone broke while charging rates that were held down for political reasons. To further protect the soundness of the new fund, the plan called for the state insurance commissioner to keep an eye on it – reviewing its rates to make sure they were adequate.

JIM LUDWICK

Guess what happened.

Before the reorganization got off the ground, an actuary working for the insurance commissioner was quoted in newspapers throughout Montana, talking about the big increases in rates that would be needed to make the program viable. Days later, the Legislature changed the reform package, removing the insurance commissioner from the picture.

At the same time, the provision stating that the fund would be a "non-profit, independent public corporation" was erased from the statutes.

Conger didn't make it, either. He started talking about the changes that would be needed, and the increases in rates that would be required to make the program legitimate. He was removed. Gov. Stan Stephens cited "philosophical differences" between Conger and others; Conger said the governor asked for his resignation due to complaints that Conger "was going to make so many waves."

But that's not all.

We now know that when the new fund was established, its rates were way too low – just like in the 1980s, when this same practice drove the old fund bankrupt and led to the use of a payroll tax to cover the bills. "Hindsight shows that the rates established for the first year were not adequate," said Patrick Sweeney, the head of the state fund, when we discussed this issue a few weeks ago. Rates have been increased more than 70 percent since the new fund was established, but the fund still is burdened by liabilities that were not adequately supported by the start-up rates, Sweeney said.

So, less than three years after the state-run business got a fresh start, it finished 1992 about $42 million in the hole. Or, in the words of an actuary who described the situation in a letter that he recently wrote to the board, the new fund would need $42 million in order to achieve a surplus of zero.

The lofty goal of a surplus of "zero" – which now would cost $42 million – would not be good enough, said the letter from actuary Martin Lewis. State law suggests that "the fund is required to have an explicit risk margin included in the rates," Lewis said. The risk margin should assure "with some degree of confidence greater than 50 percent" that the fund's income from a given period of time will be enough to cover the losses, he said. In the long run, "the effect of including a risk margin in the rate is to build surplus," Lewis said.

That's because "a target surplus value of zero is virtually certain to result in a deficit for some years. ... It is clear that the fund will continue to post deficits as long as the goal is zero surplus," Lewis said.

In that context, our leaders are returning to the capitol to review their work. And many of them are talking a good game.

Jim Ludwick is the Missoulian's business editor. His column appears each week on the Sunday Business page.

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ERD "CHEAT SHEET" OF WORKERS' COMPENSATION TERMS

"OLD FUND"

All claims, payments and liabilities to State Fund claims prior to 7/1/90. On that date the State Fund was split into "old" and "new", and all old claims went into the old category, while all claims after that date are handled by the "new fund".

"NEW FUND"

All claims and activities related to claims filed with the State Compensation Mutual Insurance Fund from 7/1/90 forward.

"UNFUNDED LIABILITY"

The amount of money the State Fund should have, but does not have, to pay all current claims. The unfunded liability is the projected total cost of all claims, minus the assets on hand to pay those claims. Both the old fund and new fund have unfunded liabilities, estimated at $426 million and $42 million respectively.

"PLAN 1 or SELF-INSURERS"

Self insurers are those businesses that have been approved by the Employment Relations Division to "self-insure" for workers' compensation. They act as their own insurance companies, paying claims, setting aside reserves for future liabilities, and so on. There are approximately 55 self insured employers.

"PLAN 2"

Private insurance carriers. There are over 200 private insurance companies licensed to "write" workers' compensation insurance in Montana. In actual fact, very few do. Plan 2 carriers are licensed by the insurance commissioner in the State Auditor's Office.

"PLAN 3"

The State Compensation Mutual Insurance Fund, or the "State Fund". Relates to the "old fund" and "new fund" explained above.

"PERMANENT PARTIAL DISABILITY, or PPD"

PPD benefits are paid to workers who have an industrial injury, have reached maximum healing from that injury, but are still limited to some extent by that injury. PPD benefits are paid to these individuals up to a maximum of $174.50 per week.

"PERMANENT TOTAL DISABILITY, or PTD"

A worker who has an industrial injury, has reached maximum healing, but is still totally disabled, and unable to work. PTD benefits are 66 2/3% of the workers pre injury wage, or up to a maximum amount of $349.00 per week, whichever is lower.

"TEMPORARY TOTAL DISABILITY, or TTD"

Temporary total benefits are paid to a worker with an industrial injury when that injury prevents the worker from working. Temporary total benefits are 66 2/3% of the worker's pre injury wage, or payable up to $349.00 per week, whichever is lower.

"TIME LOSS or INDEMNITY"

These terms indicate the benefits associated with lost wages due to a workplace injury.

"MEDICAL BENEFITS"

These benefits represent payment made by the insurer to medical providers for treatment of a worker's injury.

"MANAGED CARE"

A strategy for controlling medical costs related to a workers' compensation claim by "managing" the care a worker receives - attempting to ensure that proper treatment is given, and eliminating unnecessary treatment and cost. Managed care organizations are organizations set up to provide these services to others.

"PALLIATIVE CARE or MAINTENANCE CARE"

These terms indicate the type of medical care given to "maintain" an injured worker at the optimum level of health. It is care to maintain, rather than to improve a medical condition.

"MAXIMUM MEDICAL IMPROVEMENT"

When an injured worker has made as much medical improvement as is possible, he or she has reached maximum medical improvement. MMI is certified by the worker's physician.

"OCCUPATIONAL DISEASE or OD"

Similar definition to injury, but not limited to a single incident or event - rather it is an accumulation of happenings or conditions over more than one work shift that result in disability.

"IMPAIRMENT RATING"

A medical determination of a worker's physical impairment, typically given as a percentage figure.

"LUMP SUM"

Either payments or settlements. A payment that represents the combined amounts of a number of weeks of benefits owing or due; in essence, an agreement to make payments in a "lump" rather than stretched out over time. Always related to indemnity benefits.

NCCI vs State fund rates:
Classes w/ > $10 million payroll.

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Class	Defn	FY89 Payroll ($ mills)	NCCI Rate	State Fund Select Rate	Percent Differenc
1005	Coal Mining	$28.2	$7.58	$2.25	-70.3%
1165	Mining NOC	$28.7	$8.17	$8.70	6.5%
2702	Logging	$22.5	$84.62	$48.00	-43.3%
2710	Sawmills	$41.0	$33.59	$43.03	28.1%
2731	Molding, Planning	$10.9	$18.93	$15.32	-19.1%
2915	Veneer Mfg.	$11.8	$7.69	$6.99	-11.4%
3632	Machine Shops	$11.7	$11.08	$10.51	-5.1%
4740	Oil Refining	$21.1	$9.09	$5.78	-36.4%
5183	Plumbing	$17.2	$23.65	$12.65	-46.5%
5190	Electrical Wiring	$13.9	$14.91	$7.67	-48.6%
5191	Appliance Instl	$13.6	$3.92	$3.89	5.3%
5403	Carpentry NOC	$11.9	$48.23	$34.88	-27.7%
5506	Road Paving	$11.3	$41.18	$20.45	-50.3%
5507	Road Clearing	$15.3	$31.95	$27.07	-15.3%
5545	Res. Carpentry	$20.8	$28.56	$20.32	-28.9%
6217	Excavation	$11.1	$33.62	$24.94	-25.8%
7219	Trucking NOC	$50.5	$38.34	$26.26	-31.5%
7230	Parcel Delivery	$15.5	$9.16	$10.22	11.6%
7380	Drivers SE	$28.1	$9.58	$5.62	-43.7%
7540	Power Cos	$11.8	$8.31	$3.51	-57.8%
7600	Phone Cos	$18.4	$6.05	$3.87	-36.0%
7610	TV / Radio	$17.2	$1.60	$0.89	-44.4%
8006	Grocery Stores	$17.8	$10.06	$8.57	-14.8%
8008	Clothing Stores	$27.4	$2.95	$2.28	-22.7%
8010	Hardware Stores	$28.0	$4.62	$3.14	-32.0%
8017	Retail NOC	$60.3	$3.65	$1.84	-49.6%
8018	Wholesale NOC	$21.6	$9.67	$7.21	-25.4%
8033	Meat & Grocery	$49.2	$9.85	$5.29	-46.3%
8039	Dept. Stores	$18.2	$7.19	$4.47	-37.8%
8044	Furniture Stores	$12.6	$9.81	$9.86	0.5%
8116	Farm Machinery Dlrs	$10.6	$11.75	$7.52	-36.0%
8227	Contractors' Yards	$10.8	$18.21	$8.38	-54.0%
8232	Lumber Yards	$21.2	$16.07	$12.01	-25.3%
8350	Gas Dlrs	$12.3	$13.17	$8.44	-35.9%
8380	Auto Repair	$85.6	$11.56	$7.76	-32.9%
8601	Engineers, Architects	$31.6	$2.95	$2.01	-31.9%
8742	Outside Salesmen SE	$267.4	$1.63	$0.82	-49.7%
8748	Auto Salesmen	$30.3	$2.78	$2.43	-12.6%
8810	Clerical SE	$515.9	$0.75	$0.58	-22.7%
8829	Nursing homes	$37.9	$27.86	$18.89	-32.2%
8832	Physicians	$77.5	$1.26	$1.10	-12.7%
8833	Hospitals	$130.5	$6.52	$5.27	-19.2%
8868	Colleges	$284.8	$0.66	$0.50	-24.2%
9015	Bldg Operator/Owners	$15.3	$12.74	$6.36	-50.1%
9040	Hospitals AO	$26.5	$10.43	$8.46	-18.9%
9052	Hotels	$35.6	$10.49	$9.44	-10.0%
9079	Restaurants	$156.0	$6.94	$5.38	-22.5%
9101	Colleges AO	$48.7	$11.67	$8.74	-25.1%
		$2,445.1			-27.0%

EXHIBIT 2
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HB 13

Class	Defn	FY92 Payroll ($ mills)	NCCI Rate	State Fund Select Rate	Percent Differenc
8810	Clerical SE	$515.9	$0.75	$0.58	-22.7%
8868	Colleges	$284.8	$0.65	$0.50	-24.2%
8742	Outside Salesmen SE	$267.4	$1.63	$0.82	-49.7%
9079	Restaurants	$156.0	$6.94	$5.38	-22.5%
8833	Hospitals	$130.5	$6.52	$5.27	-19.2%
8360	Auto Repair	$85.6	$11.56	$7.76	-32.9%
8832	Physicians	$77.5	$1.26	$1.10	-12.7%
8017	Retail NOC	$60.3	$3.65	$1.84	-49.6%
7219	Trucking NOC	$50.5	$38.34	$26.26	-31.5%
8033	Meat & Grocery	$49.2	$9.85	$5.29	-46.3%
9101	Colleges AO	$48.7	$11.67	$8.74	-25.1%
2710	Sawmills	$41.0	$38.58	$48.08	28.1%
8829	Nursing homes	$37.9	$27.85	$18.89	-32.2%
9052	Hotels	$35.6	$10.49	$9.44	-10.0%
8601	Engineers, Architects	$31.6	$2.95	$2.01	-31.9%
8748	Auto Salesmen	$30.3	$2.78	$2.43	-12.6%
1005	Coal Mining	$28.2	$7.58	$2.25	-70.3%
8010	Hardware Stores	$28.0	$4.62	$3.14	-32.0%
8008	Clothing Stores	$27.4	$2.95	$2.28	-22.7%
9040	Hospitals AO	$26.5	$10.43	$8.46	-18.9%
1165	Mining NOC	$23.7	$8.17	$8.70	6.5%
7380	Drivers SE	$23.1	$9.98	$5.62	-43.7%
2702	Logging	$22.5	$84.62	$48.00	-43.3%
8018	Wholesale NOC	$21.6	$9.67	$7.21	-25.4%
8232	Lumber Yards	$21.2	$16.07	$12.01	-25.3%
4740	Oil Refining	$21.1	$9.09	$5.78	-36.4%
5645	Res. Carpentry	$20.8	$28.56	$20.32	-28.9%
8039	Dept. Stores	$18.2	$7.19	$4.47	-37.8%
8006	Grocery Stores	$17.8	$10.06	$8.57	-14.8%
7610	TV / Radio	$17.2	$1.60	$0.89	-44.4%
5183	Plumbing	$17.2	$23.65	$12.65	-46.5%
7230	Parcel Delivery	$15.5	$9.16	$10.22	11.6%
5507	Road Clearing	$15.3	$31.95	$27.07	-15.3%
9015	Bldg Operator/Owners	$15.3	$12.74	$6.36	-50.1%
5190	Electrical Wiring	$13.9	$14.91	$7.67	-48.6%
5191	Appliance Instl	$13.6	$3.22	$3.39	5.3%
7600	Phone Cos	$13.4	$6.05	$3.87	-36.0%
8044	Furniture Stores	$12.6	$9.81	$9.86	0.5%
8850	Gas Dlrs	$12.3	$13.17	$8.44	-35.9%
5403	Carpentry NOC	$11.9	$48.33	$34.88	-27.7%
7540	Power Cos	$11.8	$8.31	$3.51	-57.6%
2915	Veneer Mfg.	$11.8	$7.89	$6.99	-11.4%
3632	Machine Shops	$11.7	$11.08	$10.51	-5.1%
5506	Road Paving	$11.3	$41.18	$20.45	-50.3%
6217	Excavation	$11.1	$33.62	$24.94	-25.8%
2731	Molding, Planning	$10.9	$18.93	$15.32	-19.1%
8227	Contractors' Yards	$10.8	$18.21	$8.38	-54.0%
8116	Farm Machinery Dlrs	$10.6	$11.75	$7.52	-36.0%
		$2,446.1			-27.0%

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Class	Defn	FY89 Payroll ($ mills)	NCCI Rate	State Fund Select Rate	Percent Differenc
1005	Coal Mining	$28.2	$7.58	$2.25	-70.3%
7540	Power Cos	$11.8	$8.81	$3.51	-57.8%
8227	Contractors' Yards	$10.8	$18.21	$8.38	-54.0%
5506	Road Paving	$11.3	$41.18	$20.45	-50.3%
9015	Bldg Operator/Owners	$15.3	$12.74	$6.36	-50.1%
8742	Outside Salesmen SE	$267.4	$1.68	$0.82	-49.7%
8017	Retail NOC	$60.3	$3.65	$1.84	-49.6%
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2710	Sawmills	$41.0	$33.58	$43.03	28.1%
		$2,445.1			-27.0%

EXHIBIT 3
DATE 1-18-93
HB 13

STATE AUDITOR
STATE OF MONTANA

Mark O'Keefe
STATE AUDITOR

COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

TESTIMONY OF STATE AUDITOR MARK O'KEEFE ON HB 13 BEFORE THE HOUSE SELECT COMMITTEE ON WORKERS' COMPENSATION, JANUARY 18, 1993

Mr. Chairman, members of the committee, I am Mark O'Keefe, state auditor and insurance commissioner.

We're taking no position on House Bill 13 at this time. The sponsor, Representative Benedict, however, asked that I testify at this hearing to give our view of some of the provisions in the bill. So I'm limiting my testimony to the bill's potential effects on the insurance department and the proposed role of the insurance commissioner in examining the State Compensation Mutual Insurance Fund on a yearly basis.

During my campaign for state auditor, I was asked what the insurance commissioner could do for the workers' compensation insurance problem in Montana. I always said the insurance commissioner, who has statutory authority to supervise, rehabilitate and liquidate insurers, should be part of the work-comp solution, not part of the problem. I told Montanans that if the state insurance commissioner, in the course of his duties of reviewing private insurers, did find solutions that could possibly help solve our work-comp problem, he should pass those recommendations on. So, with this bill, I must ask myself, and the Legislature should do the same: Is this proposal making the insurance commissioner part of the problem or part of the solution? That's the ultimate test.

Here are some issues you ought to think about.

Several sessions ago, lawmakers created the new State Fund to try to run it in an actuarially sound manner and more like a private business. The Legislature even gave the state insurance commissioner the role of reviewing rates to make sure they were adequate. But an actuary working for the commissioner was quoted in newspapers saying big rate increases would be needed to make the new fund financially sound. Lawmakers later removed the insurance commissioner from the new fund's picture.

So this proposal isn't new. Politics has always been a part of the new State Fund. The previous governor, citing "philosophical differences," removed the State Fund's first board chairman after the chairman talked about the changes and rate increases needed for the fund.

The new fund now has an estimated unfunded liability of $42 million, and the board's actuary and the state fund president have said double-digit rate increases will be needed to put the fund on solid footing. So we're back at ground zero.

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House Bill 13 would give the state insurance commissioner authority to examine the state fund on a yearly basis. After reviewing the fund, if the commissioner determines that, if it were a private insurer, it would be subject to supervision, rehabilitation and liquidation, he shall report those findings to the governor and legislature.

The commissioner shall review rates established by the board to determine if they are excessive, inadequate or unfairly discriminatory. The bill says the commissioner will have the same authority over the state fund's rate setting procedures as the commissioner has over private insurers' rate-setting procedures.

The bill excludes the State Fund from parts of Title 33 that deal with reports, fees and taxes; investments; and supervision, rehabilitation and liquidation. The insurance commissioner, then, would just review the fund's rates and report to the Legislature and governor.

Rates, more than likely, will have to go up. That's no surprise.

In fiscal year 1989 for classes with a payroll of $10 million or more, State Fund premium rates on average were 73 percent of those recommended by the National Council on Compensation Insurance, a national work-comp rating organization.

On July 1, 1992 State Fund rates were about 70% of NCCI recommended rates, having risen from 58 percent of NCCI as of July 1991 and 65 percent of NCCI in January 1992. So the trend in rates is upward and will continue that way until the new fund charges rates to cover liabilities and build adequate reserves.

The State Fund board has raised rates five times since the new fund was created two-and-a-half years ago. There's no secret that rates for the new fund in most classes are low, and that they'll have to be raised to cover liabilities and build a reserve.

Now comes the question: Why are we doing this?

Actuaries never agree. The chances of the State Fund's actuary and the insurance commissioner's actuary agreeing on rates is -- well, you need an actuary to figure out the odds on that one. But they're not good odds.

Finally, I'll talk about cost.

Our analysts say the fiscal note that we provided in the early days of my administration could be on the light side. Their assumptions included a provision for an outside actuary to conduct an annual review of the State Fund's rates at an initial estimate of $55,000. But they anticipated only one rate review a year.

The trend in the last several years of the new fund has been two rate adjustments per year -- all upward.

Our analysts also contend there is a great probability that we could expect two rate hearings per year at which the State Fund would object to the contracted actuary's findings on rates. These hearings also were not included in our agency's original fiscal note.

The additional annual costs for these extra items are estimated to cost between $20,000 and $25,000. Testimony by a contracted actuary would cost between $5,000 and $6,000 per

hearing. The additional rate review by the contracted actuary is estimated at $5,000 to $10,000. The costs of an outside hearings officer are estimated at $2,500 per hearing.

So total costs for Fiscal Year '94 would be $80,000, and $60,000 for fiscal year '95.

It's this Legislature's decision what they want to do with the State Fund.

From my perspective, though, this bill adds cost and doesn't put me in a position of helping solve the problem. You can make the State Fund private, give me more responsibility in overseeing the fund or take me out of the bill. I don't see the provisions in this bill relating to my office as helping solve the problem.

Thank you.

EXHIBIT 3
DATE 1-18-93
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DATE 1-18-93
HB 13

MONTANA HOSPITAL ASSOCIATION
1720 NINTH AVENUE • P.O. BOX 5119
HELENA, MT. 59604 • (406) 442-1911

TESTIMONY OF THE MONTANA HOSPITAL ASSOCIATION

HOUSE BILL 13

REVISING WORKER'S COMPENSATION LAW

The Montana Hospital Association supports the Legislative efforts to improve the administration and performance of the State Compensation Mutual Insurance Fund. The unfunded liability is of grave concern to hospitals. Hospitals are a labor intensive industry. Payroll costs represents over one-half of all hospital expense. Hospitals have been subjected to huge increases in premiums and the .28 percent payroll tax. Payments made to hospitals by worker's comp insurers have been essentially frozen at 1986 levels. Still, the unfunded liability grows.

MHA supports the provision in House Bill 13 which places the state fund under the authority of the insurance commissioner.

House Bill 13, however, makes two changes MHA cannot support. While House Bill 13 strives to assist the state fund in operating more like an insurance company, the bill also reduces public access to the state fund. House Bill 13 first proposes to exempt the state fund from the Montana Administrative Procedures Act. This change ends the primary opportunity for public participation and comment on the operation of the state fund. MAPA requires the state fund to publicize their policies and rates, requires the fund to solicit public input and consider their comments prior to taking action. Ending this process is a bad idea.

Montanans are being told they will have to pay some $600 million in increased premiums and taxes to bail out the state fund. It is the public's right to be involved in how the state fund is operated and how it sets rates. With few exceptions, every state agency is able to propose and adopt rules and policies within the scope of the Montana Administrative Procedures Act.

MHA urges this committee to reject changes in the law which reduce public access to the state fund.

MHA also opposes ending the state fund's relationship to the National Council on Compensation Insurance, or NCCI. MHA believes NCCI provides a reasonable standard for classifying employees and setting insurance premiums. While there may be other similar ways to classify employees and set rates, this bill does not identify them. House Bill 13 appears to say to the state fund, "Do whatever you want".

MHA urges this committee to reject changes to end the relationship with NCCI.

EXHIBIT 5
DATE 1-18-93
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Rose Hughes
HB 13 1/18/93

DEPARTMENT OF ADMINISTRATION

CHAPTER 55

STATE COMPENSATION MUTUAL INSURANCE FUND

NOTE: *THESE RULES ARE NOT CURRENTLY IN USE BY THE STATE FUND AS THEY WERE VOIDED BY A DISTRICT COURT DECISION. AS THE DECISION IS ON APPEAL, THE RULES WILL NOT BE REPEALED AT THIS TIME.

Sub-Chapter 1

Organizational Rule

Rule 2.55.101* Organizational Rule

2.55.102 Organizational Rule

Sub-Chapter 2

Open Meetings

Rule 2.55.201* Open Meetings

2.55.202 Policies and Objectives in Providing Citizen Participation in the Operation of the State Compensation Mutual Insurance Fund

2.55.203 Guidelines for Determination of Significant Public Interest

2.55.204 Guidelines for State Fund Programs

2.55.205 Notice and Means for Public Participation

2.55.206 Open Meetings

Sub-Chapter 3

Premium Rates

Rule 2.55.301* Method for Assignment of Classifications of Employments

2.55.302* Calculation of Experience Rates

2.55.303* Calculation of Credibility Weighted Rates

2.55.304* Determination of Aggregate Revenue Requirements

Rule 2.55.305* Premium Ratesetting

Rules 06 through 08 reserved

2.55.309* Experience Modification Factor

2.55.310* Variable Pricing Within a Classification

Rules 11 through 14 reserved

2.55.315* Volume Discount

2.55.316* Minimum Yearly Premium

Rules 17 through 19 reserved

2.55.320 Method for Assignment of Classifications of Employments

2.55.321 Calculation of Experience Rates

2.55.322 Calculation of Credibility Weighted Rate

2.55.323 Determination of Aggregate Revenue Requirements

2.55.324 Premium Ratesetting

2.55.325 Variable Pricing Within a Classification

2.55.326 Minimum Yearly Premium

2.55.327 Construction Industry Premium Credit Program

Sub-Chapter 4

Premium Modifiers

Rule 2.55.401 Experience Modification Factor

2.55.402 Medical Deductible

2.55.403 Volume Discount

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

WORKERS Comp COMMITTEE H BILL NO. 13

DATE 1-18-93 SPONSOR(S) Benedict

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
PAUL SVRCEK Box 4664, Mslo	self	X	
George Wood	Mt. Self Insurers Assn	X as amended	
Robert Olsen	MT Hospital Assoc.		
Mona Jamison	Physical Therapy Assn.		X
[illegible]	MT Rehab Clin Assn		X
Jim Tutwiler	MT CHAMBER	✓	
Don Allen	CWCSF	✓	
KEITH [illegible]	MT Logging Assn	✓	
RILEY JOHNSON	NFIB	✓	
Nancy Griffin	Builders Assoc	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

SB 163

REP. HIBBARD stated that this bill will prevent injuries before they occur and will focus on safety. A business with five or more employees will be required to establish a safety committee and a Line of Duty (LOD) procedure. Furthermore, this bill will provide student safety awareness training before these students enter the work force full-time. **REP. HIBBARD** stated that the passage of this bill is very important to the package.

SB 164

REP. HIBBARD stated that this bill deals with prevention. The purpose of SB 164 is to create a fraud investigation office in the Department of Justice and a prevention of fraud office at the State Fund. This bill will allow the State Fund to send the message that fraud won't be tolerated and to give them the tools they need to enforce fraud provisions.

HB 453

REP. HIBBARD stated that this bill complements the fraud provisions in SB 164. The passage of this bill will make thieves pay ten times the amount that would be paid by an insurer on the false claim..

HB 622

REP. HIBBARD stated that this bill is a catch-all bill. The purpose of the bill is to generally revise workers' compensation and occupational disease laws. Everyone is subject to the same rules under this bill. A lawyer who does not pay will be charged with fraud.

SB 394

REP. HIBBARD stated that the passage of this bill will regulate attorney fees for workers' compensation cases.

HB 504

REP. HIBBARD stated that the passage of this bill is necessary to get out from under the problems in workers' compensation more quickly. This bill increases the payroll tax and imposes an employee wage tax to eliminate the old fund unfunded liability.

HB 13

REP. HIBBARD stated that the purpose of this bill is to generally revise workers' compensation laws and to revise the State Fund's budget and funding procedures. The passage of this bill makes sure all findings are reported to the Governor.

HB 511

HOUSE OF REPRESENTATIVES

LABOR COMMITTEE

ROLL CALL DATE 3/16/93

NAME	PRESENT	ABSENT	EXCUSED
REP. TOM NELSON, CHAIRMAN	✓		
REP. GARY FELAND, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. VICKI COCCHIARELLA	✓		
REP. JERRY DRISCOLL	✓		
REP. ALVIN ELLIS	✓		
REP. PAT GALVIN	✓		
REP. SONNY HANSON	✓		
REP. NORM MILLS	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CAROLYN SQUIRES	✓		
REP. BILL TASH	✓		
REP. ROLPH TUNBY	✓		
REP. CARLEY TUSS	✓		
REP. TIM WHALEN	✓		

EXHIBIT 2
DATE 2/11/93
HB 13

Amendments to House Bill No. 13
Second Reading Copy

Requested by Representative Benedict
For the Committee on Labor

Prepared by Bart Campbell
March 12, 1993

1. Title, line 9.
Following: "~~COMMISSIONER,~~"
Insert: "PERMITTING THE GOVERNOR TO CONTRACT FOR PRIVATE SECTOR INVOLVEMENT TO LIQUIDATE THE UNFUNDED LIABILITY AND TO MANAGE CLAIMS OF THE OLD FUND AND TO MANAGE CLAIMS OF THE NEW FUND OF THE MONTANA STATE COMPENSATION MUTUAL INSURANCE FUND; CLARIFYING THE COMPENSABILITY OF MENTAL STRESS CLAIMS; PROVIDING THAT THE GOVERNOR SHALL APPOINT THE BOARD OF DIRECTORS OF THE STATE FUND; PROVIDING THAT THE MEMBERS OF THE BOARD OF DIRECTORS AND THE EXECUTIVE DIRECTOR OF THE STATE FUND SERVE AT THE PLEASURE OF THE GOVERNOR;"

2. Title, lines 10 through 12 .
Strike: "EXEMPTING" on line 10 through "ACT;" on line 12

3. Title, line 14.
Strike: "2-4-102"
Insert: "2-15-1019"

4. Title, line 15.
Following: "18-8-103,"
Strike: "39-71-2314,"
Insert: "33-1-102, 39-71-105, 39-71-721, 39-71-2315,"
Following: "39-71-2316,"
Insert: "39-71-2317,"

5. Title, line 16.
Following: "39-71-2323,"
Strike: "AND"
Insert: "39-71-2351,"
Following: "39-71-2352,"
Insert: "39-71-2354, AND 39-71-2503,"

6. Page 1, line 18.
Insert: "WHEREAS, the Legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the State Fund as the insurer of last resort, and in making this insurance available, the State Fund has incurred an unfunded liability; and

WHEREAS, the unfunded liability has grown each year despite the fact that there have been numerous attempts to solve the problem by legislation and other methods, but those attempts have not resolved the problem; and

WHEREAS, the Legislature separated the payment structure and sources for claims for injuries resulting from accidents that

occurred before July 1, 1990 (the "old fund"), from injuries occurring on or after July 1, 1990 (the "new fund"), and provided revenue options and spending limits; and

WHEREAS, this separation has not eliminated the unfunded liability, which is estimated to be in excess of $400 million; and

WHEREAS, the Joint Select Committee on Workers' Compensation of the 52nd Legislature solicited from private insurance and reinsurance markets proposed solutions to liquidate the old fund unfunded liability; and

WHEREAS, insurance and reinsurance markets responded to the Committee's request for assistance to liquidate the old fund unfunded liability; and

WHEREAS, the Committee reviewed and concurred in a preliminary proposal of one of the insurance and reinsurance markets that the Committee believed provides significant benefits to Montana, including but not limited to:

(1) risk transfer;

(2) profit sharing between the reinsurer and the state;

(3) investment of premiums in Montana financial institutions and investments;

(4) funding and finance options;

(5) security to Montana in the event of contract breach or insolvency of the reinsurer;

(6) industry best claims management and administration; and

(7) development of clean industry private sector jobs; and

WHEREAS, there may be merit in the proposal, and it may be in the best interests of Montana to proceed with the negotiations with the reinsurer.

THEREFORE, the Legislature finds it appropriate to empower the Governor to fully investigate and negotiate a reinsurance solution.

7. Page 1, line 20 through page 5, line 6
Strike: section 1 in its entirety
Renumber: subsequent sections

8. Page 6, following line 12.
Insert: " NEW SECTION. Section 1. **Liquidation of old fund liability.** (1) (a) The governor is authorized to negotiate the liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, if an agreement can be reached that is in the best interests of Montana. The scope of any negotiated agreement may include but may not exceed all of the rights, privileges, liabilities, and duties of the state fund with respect to all claims arising prior to July 1, 1990.

(b) The governor may not enter into an agreement that pays more than $400 million to the other party to the agreement.

(c) Any contract finalized by the governor must contain a provision that the contract is void unless necessary financing to fund the unfunded liability has been provided by the 1993 legislature.

(d) To be effective, a contract must be finalized by the governor within 120 days of [the effective date of this section].

(e) Any contract finalized by the governor may require reinsurance premium payments by the state to be used to liquidate the old fund liability.

(2) Any entity entering into an agreement with Montana under [section 2] or this section shall submit an annual report to the legislative audit committee. The first report is due 12 months after the agreement is finalized and thereafter may be submitted on a fiscal year basis.

(3) Any negotiations or agreements entered into pursuant to [section 2] and this section are not subject to the competitive bidding requirements of Title 18, chapter 4.

(4) A negotiation or an agreement entered into pursuant to [section 2] is not subject to the privatization plan requirements of Title 2, chapter 8, part 3.

NEW SECTION. Section 2. **Claims settlement of new fund claims -- new fund management.** As part of the negotiated liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, the governor may negotiate for claims settlement of the claims of persons whose benefits have not been determined under a claim based on an injury occurring on or after July 1, 1990, and for services with respect to the new fund of the state fund, including but not limited to claims management services, third-party administration, and medical cost containment agreements if the contracted services are in the best interests of the state. An agreement under this section is valid only if it is part of an agreement that meets the requirements of [section 1].

NEW SECTION. Section 3. **Audit of contracted services and old fund liquidation.** Any proposal involving the private sector in liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, or in claims settlement and management of the new fund of the state fund must provide for audit and reporting mechanisms in compliance with 39-71-2361.

NEW SECTION. Section 4. **Mutually agreeable lump-sum settlements.** Beginning July 1, 1993, a workers' compensation claimant and the state fund or a reinsurer may, regardless of the lump-sum law in effect on the date of the injury, mutually agree to a lump-sum settlement of a claim. If a mutual agreement is not reached, the lump-sum law in effect on the date of the injury applies.

Section 5. Section 39-71-721, MCA, is amended to read:

"39-71-721. **Compensation for injury causing death -- limitation.** Except as provided in [section 4]:

(1) (a) ~~If~~ if an injured employee dies and the injury was the proximate cause of ~~such~~ death, then the beneficiary of the deceased is entitled to the same compensation as though the death occurred immediately following the injury. A beneficiary's eligibility for benefits commences after the date of death, and the benefit level is established as set forth in subsection (2).

(b) ~~The~~ the insurer is entitled to recover any overpayments or compensation paid in a lump sum to a worker prior to death but not yet recouped. The insurer shall recover ~~such~~ the payments from the beneficiary's biweekly payments as provided in 39-71-741(5).

(2) ~~To~~ to beneficiaries as defined in 39-71-116(3)(a)

through (3)(d), weekly compensation benefits for an injury causing death are 66 2/3% of the decedent's wages. The maximum weekly compensation benefit may not exceed the state's average weekly wage at the time of injury. The minimum weekly compensation benefit is 50% of the state's average weekly wage, but in no event may it exceed the decedent's actual wages at the time of ~~his~~ death.

(3) ~~To~~ to beneficiaries as defined in 39-71-116(3)(e) and (3)(f), weekly benefits must be paid to the extent of the dependency at the time of the injury, subject to a maximum of 66 2/3% of the decedent's wages. The maximum weekly compensation may not exceed the state's average weekly wage at the time of injury.

(4) ~~If~~ if the decedent leaves no beneficiary as defined in 39-71-116, a lump-sum payment of $3,000 must be paid to the decedent's surviving parent or parents~~.~~;

(5) ~~If~~ if any beneficiary of a deceased employee dies, the right of ~~such~~ the beneficiary to compensation under this chapter ceases. Death benefits must be paid to a surviving spouse for 500 weeks subsequent to the date of the deceased employee's death or until the spouse's remarriage, whichever occurs first. After benefit payments cease to a surviving spouse, death benefits must be paid to beneficiaries, if any, as defined in 39-71-116(3)(b) through (3)(d).

(6) ~~In~~ in all cases, benefits must be paid to beneficiaries, as defined in 39-71-116~~.~~; and

(7) ~~Benefits~~ benefits paid under this section may not be adjusted for cost of living as provided in 39-71-702.

~~(8) Notwithstanding subsections (2) and (3), beginning July 1, 1987, through June 30, 1991, the maximum weekly compensation benefits for injury causing death may not exceed the state's average weekly wage of $299 established July 1, 1986. Beginning July 1, 1987, through June 30, 1991, the minimum weekly compensation for injury causing death shall be $149.50, which is 50% of the state's average weekly wage established July 1, 1986, but in no event may it exceed the decedent's actual wages at the time of death.~~"

Section 6. Section 39-71-2315, MCA, is amended to read:

"**39-71-2315. Management of state fund -- powers and duties of ~~the~~ board.** Except with respect to any agreement established pursuant to [sections 1 and 2] and except as provided in 2-15-1019 or 39-71-2317:

(1) ~~The~~ the management and control of the state fund is vested solely in the board~~.~~; and

(2) ~~The~~ the board is vested with full power, authority, and jurisdiction over the state fund. The board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the state fund, either in the administration of the state fund or in connection with the insurance business to be carried on under the provisions of this part, as fully and completely as the governing body of a private mutual insurance carrier, in order to fulfill the objectives and intent of this part. Bonds may not be issued by the board, the state fund, or the executive director."

Section 7. Section 39-71-2351, MCA, is amended to read:

"39-71-2351. Purpose of separation of state fund liability as of July 1, 1990, and of separate funding of claims before and on or after that date. (1) An unfunded liability exists in the state fund. It has existed since at least the mid-1980s and has grown each year. There have been numerous attempts to solve the problem by legislation and other methods. These attempts have alleviated the problem somewhat, but the problem has not been solved.

(2) The legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability. The legislature has determined that the most cost-effective and efficient way to provide a source of funding for and to ensure payment of the unfunded liability and the best way to administer the unfunded liability is to:

(a) separate the liability of the state fund on the basis of whether a claim is for an injury resulting from an accident that occurred before July 1, 1990, or an accident that occurs on or after that date;

(b) extend the payroll tax imposed by 39-71-2503 and dedicate the tax money first to the repayment of bonds issued under 39-71-2354 and 39-71-2355 and then to the repayment of loans given under 39-71-2354 and 39-71-2355, to payment of premiums for a negotiated liquidation of the unfunded liability of the old fund of the state fund as provided in [section 1], and the direct payment of the costs of administering and paying claims for injuries from accidents that occurred before July 1, 1990.

~~(3) The legislature further determines that in order to prevent the creation of a new unfunded liability with respect to claims for injuries for accidents that occur on or after July 1, 1990, certain duties of the state fund should be clarified and legislative oversight of the state fund should be increased.~~"

Section 8. Section 39-71-2354, MCA, is amended to read:

"**39-71-2354. Use of payroll tax proceeds -- loans -- bonds.** (1) Taxes collected under 39-71-2503 may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990, including the cost of repaying bonds issued and loan proceeds given under 39-71-2355 and this section and any premium payments that may be required by an agreement made pursuant to [section 1]. If the state fund determines that, for the next 1 or more years following the date of the determination, the tax revenue, together with funds in the account required by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, will be insufficient to administer and pay those claims, the state fund may, through its board of directors, request the budget director to certify to the board of investments that additional funding is necessary. If the budget director agrees with the state fund's board of directors that additional funding is necessary, the budget director shall certify to the board of investments the amount that the budget director determines is necessary to administer and pay claims for injuries resulting from accidents

that occurred before July 1, 1990. Except as provided in subsection (2), the board of investments shall, at times and in amounts it considers necessary or advisable, finance the amount certified by the budget director by giving the state fund the proceeds of a loan or a bond issue to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. ~~Loans must be from reserves accumulated from premiums paid to the state fund based upon wages payable on or after July 1, 1990.~~ In the event that loans are necessary for an agreement established in accordance with [sections 1 and 2], the governor is authorized to pursue internal and external financing that is in the best interests of the state. The board of investments shall choose the method of financing that is most cost-effective for the state fund. A loan must bear interest at the rate the money would earn in the pooled investment fund required by 17-6-203. The board of investments may also, upon request of the board of directors of the state fund, give the state fund the proceeds of a bond issue, to be used to pay off loans made under 39-71-2355 and this section. Bonds for the state fund must be workers' compensation bonds issued under 39-71-2355.

(2) ~~The~~ Except for any agreement established pursuant to [sections 1 and 2], the total amount of loan proceeds given to the state fund plus workers' compensation bonds issued under 39-71-2355, except bonds issued to repay loans as provided for in subsection (1), may not exceed $220 million. All loan and bond proceeds given to the state fund must be repaid to the board of investments before July 1, 2020."

Section 9. Section 39-71-2503, MCA, is amended to read:

"**39-71-2503. Workers' compensation payroll tax.** (1) (a) There is imposed on each employer a workers' compensation payroll tax in an amount equal to 0.28% of the employer's payroll in the preceding calendar quarter for all employments covered under 39-71-401, except that if an employer is subject to 15-30-204(2), the tax is an amount equal to 0.28% of the employer's payroll in the preceding week. This payroll tax must be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990, or for payment of those claims under [section 1]. If one or more loans or bonds are outstanding, the tax must be continued at the 0.28% rate and the legislature may not modify the tax rate, the use of the tax proceeds, or this section in a manner that reduces the security for repayment of the outstanding loans or bonds, except that the legislature may forgive payment of the tax or reduce the tax rate for any 12-month period if the workers' compensation bond repayment account contains on the first day of that period an amount, regardless of the source, that is in excess of the reserve maintained in the account and that is equal to the amount needed to pay and dedicated to the payment of the principal, premium, and interest that must be paid during that period on the outstanding loans or bonds. The legislature may not increase the tax rate except upon a two-thirds vote of each house.

(b) Each employer shall maintain the records the department requires concerning the employer's payroll. The records are subject to inspection by the department and its employees and

agents during regular business hours.

(2) All collections of the tax are appropriated to and must be deposited as received in the tax account. The tax is in addition to any other tax or fee assessed against employers subject to the tax.

(3) (a) On or before the last day of April, July, October, and January, each employer subject to the tax shall file a return in the form and containing the information required by the department and, except as provided in subsection (3)(b), pay the amount of tax required by this section to be paid on the employer's payroll for the preceding calendar quarter.

(b) An employer subject to 15-30-204(2) shall remit to the department a weekly payment with its weekly withholding tax payment in the amount required by subsection (1)(a).

(c) A tax payment required by subsection (1)(a) must be made with the return filed pursuant to 15-30-204. The department shall first credit a payment to the liability under 15-30-202 and credit any remainder to the workers' compensation tax account provided in 39-71-2504.

(4) An employer's officer or employee with the duty to collect, account for, and pay to the department the amounts due under this section who willfully fails to pay an amount is liable to the state for the unpaid amount and any penalty and interest relating to that amount.

(5) Returns and remittances under subsection (3) and any information obtained by the department during an audit are subject to the provisions of 15-30-303, but the department may disclose the information to the department of labor and industry under circumstances and conditions that ensure the continued confidentiality of the information.

(6) The department of labor and industry and the state fund shall, on July 1, 1991, or as soon after that date as possible, give the department a list of all employers having coverage under any plan administered or regulated by the department of labor and industry and the state fund. After the lists have been given to the department, the department of labor and industry and the state fund shall update the lists weekly. The department of labor and industry and the state fund shall provide the department with access to their computer data bases and paper files and records for the purpose of the department's administration of the tax imposed by this section.

(7) The provisions of Title 15, chapter 30, not in conflict with the provisions of this part regarding administration, remedies, enforcement, collections, hearings, interest, deficiency assessments, credits for overpayment, statute of limitations, penalties, and department rulemaking authority apply to the tax, to employers, and to the department."

Section 10. Section 33-1-102, MCA, is amended to read:

"33-1-102. **Compliance required -- exceptions -- health service corporations -- health maintenance organizations -- governmental insurance programs.** (1) A person may not transact a business of insurance in Montana or relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect

to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations to the extent that the existence and operations of those organizations are authorized by chapter 31.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, [sections 1 and 2], and related sections.

(6) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

(7) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(8) (a) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program."

Section 11. Section 39-71-105, "MCA, is amended to read:

"**39-71-105. Declaration of public policy.** For the purposes of interpreting and applying Title 39, chapters 71 and 72, the following is the public policy of this state:

(1) It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage supplement and medical benefits to a worker suffering from a work-related injury or disease. Wage-loss benefits are not intended to make an injured worker whole; they are intended to assist a worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

(2) A worker's removal from the work force due to a work-related injury or disease has a negative impact on the worker, the worker's family, the employer, and the general public. Therefore, it is an objective of the workers' compensation system to return a worker to work as soon as possible after the worker has suffered a work-related injury or disease.

(3) Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-

administering. Claimants should be able to speedily obtain benefits, and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

(4) Title 39, chapters 71 and 72, must be construed according to their terms and not liberally in favor of any party.

(5) It is the intent of the legislature that stress claims, often referred to as "mental-mental claims" and "mental-physical claims", are not compensable under Montana's workers' compensation and occupational disease laws. The legislature recognizes that these claims are difficult to objectively verify and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. In addition, not all injuries are compensable under the present system, as is the case with repetitive injury claims, and it is within the legislature's authority to define the limits of the workers' compensation and occupational disease system."

{*Internal References to 39-71-105: None.*}

Section 12. Section 2-15-1019, MCA, is amended to read:

"**2-15-1019. Board of directors of the state compensation mutual insurance fund.** (1) There is a board of directors of the state compensation mutual insurance fund.

(2) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may employ its own staff.

(3) The board may provide for its own office space and the office space of the state fund.

(4) The board consists of five members appointed by the governor. The executive director of the state fund is an ex officio nonvoting member.

(5) At least three of the five members shall represent state fund policyholders and may be employees of state fund policyholders. At least three members of the board shall represent private, for-profit enterprises. A member of the board may not:

(a) represent or be an employee of an insurance company that is licensed to transact workers' compensation insurance under compensation plan No. 2; or

(b) be an employee of a self-insured employer under compensation plan No. 1.

(6) A member ~~is appointed for a term of 4 years~~ serves at the pleasure of the governor. The governor may remove a member at any time and appoint a new member to the office. The terms of board members must be staggered. A member of the board may serve no more than two 4-year terms. A member shall hold office until a successor is appointed and qualified.

(7) The members must be appointed and compensated in the same manner as members of a quasi-judicial board as provided in 2-15-124, except that the requirement that at least one member be

an attorney does not apply and except that the members serve at the pleasure of the governor."
{*Internal References to 2-15-1019: 39-71-2312*}

Section 13. Section 39-71-2317, MCA, is amended to read:
"**39-71-2317. Appointment of executive director -- management staff.** (1) The ~~board~~ governor shall, at the beginning of each gubernatorial term, appoint an executive director of the state fund who has general responsibility for the operations of the state fund.

(2) The executive director serves at the pleasure of the governor. The governor may remove the executive director at any time and appoint a new executive director to the office.

(3) The executive director must have executive level experience, with knowledge of the insurance industry. The executive director must receive compensation as set by the board ~~and serve at the pleasure of the board~~. The executive director may hire the management staff of the state fund, each of whom serves at the pleasure of the executive director.""
{*Internal References to 39-71-2317: *39-71-431*}
Renumber: subsequent sections

9. Page 7, lines 6 through 19.
Strike: section 3 in its entirety
Renumber: subsequent sections

10. Page 8, line 4.
Following: "~~employer~~"
Insert: "to cover its administrative costs for coverage of a small employer"

11. Page 8, following line 7.
Insert: "(3) adopt, amend, and repeal rules relating to the conduct of its business;"
Renumber: subsequent subsections

12. Page 10, lines 1 and 25.
Strike: "(8)"

13. Page 17, following line 2.
Insert: "NEW SECTION. Section 25. **Coordination with Occupational Disease Act of Montana.** For purposes of [sections 1 through 4] and the administration of Title 39, chapter 72, a reference in [sections 1 through 4] to an injury resulting from an accident or to a claim for an injury resulting from an accident includes a disablement, as defined in 39-72-102(4).

NEW SECTION. Section 26. **Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."
Renumber: subsequent sections

14. Page 17, line 3.
Following: "instruction."
Insert: "(1) [Sections 1 through 3] are intended to be codified as an integral part of Title 39, chapter 71, and the provisions of Title 39, chapter 71, apply to [sections 1 through 3].
(2) [Section 4] is intended to be codified as an integral part of Title 39, chapter 71, part 23, and the provisions of Title 39, chapter 71, part 23, apply to [section 4]. (3)"

15. Page 17, lines 4 and 7.
Strike: "7"
Insert: "18"
Strike: "9"
Insert: "20"

16. Page 17, lines 9 through 13.
Strike: "[SECTION 9"on line 9 through "1993." on line 13
Insert: "[Sections 1 through 3, 10 through 13, 20, and 23 through 27 and this section] are effective on passage and approval.
(2) [Sections 4 through 9] are effective on finalization of an agreement entered into by the governor and the reinsurer, as provided in [section 1].
(3) [Sections 14 through 19, 21, and 22] are effective July 1, 1993.
(4) [Section 20] applies to the budget for fiscal year 1994."

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Labor & Employment COMMITTEE BILL NO. HB 13

DATE March 16, 1993 SPONSOR(S) J. Benedict

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
George Wood	MT Self Insurers Assn	✓	
Rich Bell	Gov's Office	✓	
Jayne Shice	SELF	✓	
Jim Smith	MT Chamber	✓	
Rich Bell	Gov Office	✓	
Riley Johnson	NFIB	✓ with Amend.	
Jamie Doggett	MT Cattlewomen	✓	
John Shontz	MHAM	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Labor & Employment COMMITTEE BILL NO. HB 13

DATE March 16, 1993 SPONSOR(S) L. Benedict

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jacqueline Lennark	Am. Ins. Assoc	X w/ amdts	
Dirk Swenson	MHCA	X	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Labor & Employment COMMITTEE BILL NO. HB 13

DATE March 16, 1993 SPONSOR(S) L. Benedict

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Russ Logan	Billings Chamber of Commerce Coalition for Work Comp Imp	✓	
Chuck R. Bowley	MT. Rpt. Ind. Assoc	✓	
Lorie Wright	Mt. Phys. Ther. Assn.	✓	
David Bittle Helena	Sec. Assn. Exec.	✓	
Jim Lenard	CWCST Chairman	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Motion/Vote: **REP. DRISCOLL MOVED SB 394 BE CONCURRED IN.** The question was called. A voice vote was taken. The motion **CARRIED** 12 to 4 with **REP's COCCHIARELLA, SQUIRES, TUSS AND WHALEN** voting no.

EXECUTIVE ACTION ON HB 504

Motion: **REP. BENEDICT MOVED HB 504 DO PASS.**

Discussion: **REP. BENEDICT** proposed an amendment on page 5, line 18 to change "1%" to "5%". The question was called on the Benedict amendment. The motion **CARRIED** unanimously.

The question was called on amendment HB 050401.asf. The motion **CARRIED** unanimously.

George Wood proposed amendment 050403.agp **(EXHIBIT #5)**. The question was called on the amendment. The motion **CARRIED** unanimously.

REP. DRISCOLL told the committee that he feels this bill should go to taxation because of the money it involves.

Motion/Vote: **REP. BENEDICT MOVE HB 504 DO PASS AS AMENDED.** The question was called. A voice vote was taken. The motion **CARRIED** 9 to 7.

EXECUTIVE ACTION ON HB 13

Motion: **REP. BENEDICT MOVED HB 13 DO PASS.**

Discussion: **REP. BENEDICT** proposed an amendment that would exempt the State Fund from MAPA. **REP. WHALEN** suggested separating amendments 2, 10 and 12.

REP. COCCHIARELLA stated that she is frustrated with these amendments. She stated that the committee is undoing all the work that the subcommittee did during the session.

REP. DRISCOLL suggested separating amendment 8 also.

The question was called on all of the amendments besides 2, 8, 10 and 12. The motion **CARRIED** 9 to 7.

The question was called on 2, 10, and 12. The motion **CARRIED** 15 to 1 with **REP. COCCHIARELLA** voting no.

REP. DRISCOLL suggested changing the amount on amendment 8 from $400 million to $300 million.

REP. BENEDICT stated that it is better to have too much money than not enough to take care of unfunded liabilities.

REP. WHALEN stated that he supports the proposed $300 million figure because it gives the freedom of what manner privatization can be entered into.

REP. COCCHIARELLA stated that bargaining should start from the bottom up not the top down.

REP. HANSON stated that it is standard practice to use an upper cap. He told the committee to give them $400 million.

The question was called on amendment 8 to change the cap to 300 million. The motion **FAILED** 7 to 9.

The question was called on amendment 8 to leave the cap at $400 million. The motion **CARRIED** 9 to 7.

REP. COCCHIARELLA proposed an amendment **(EXHIBIT #6)**. The question was called on the Cocchiarella amendment. The motion **CARRIED** unanimously.

REP. WHALEN proposed an amendment worded by **REP. MILLS**. The amendment was worded as such "cash or assets in an aggregate amount not to exceed $400 million" and to strike the words "more than". The question was called on the Whalen/Mills amendment. The motion **CARRIED** unanimously.

REP. BENEDICT proposed amendment hb001306. This amendment is an appropriation for the legislative auditor. The question was called on the Benedict amendment. The motion **CARRIED** 12 to 4 with **REP's TUSS, COCCHIARELLA and SQUIRES** voting no.

Motion/Vote: **REP. BENEDICT MOVED HB 13 DO PASS AS AMENDED.** The question was called. A voice vote was taken. The motion **CARRIED** 9 to 7.

EXECUTIVE ACTION ON HB 511

Motion: **REP. DRISCOLL MOVED HB 511 DO PASS.**

Discussion: None

Motion/Vote: **REP. DRISCOLL MOVED HB 511 DO PASS.** The question was called. A voice vote was taken. The motion **CARRIED** 10 to 6 with **REP's BENEDICT, COCCHIARELLA, WHALEN, MILLS, HANSON AND GALVIN** voting no.

HOUSE OF REPRESENTATIVES

LABOR COMMITTEE

ROLL CALL DATE 3/10/93

NAME	PRESENT	ABSENT	EXCUSED
REP. TOM NELSON, CHAIRMAN	✓		
REP. GARY FELAND, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. VICKI COCCHIARELLA	✓		
REP. JERRY DRISCOLL	✓		
REP. ALVIN ELLIS	✓		
REP. PAT GALVIN	✓		
REP. SONNY HANSON	✓		
REP. NORM MILLS	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON			✓
REP. CAROLYN SQUIRES	✓		
REP. BILL TASH	✓		
REP. ROLPH TUNBY	✓		
REP. CARLEY TUSS	✓		
REP. TIM WHALEN	✓		

HOUSE STANDING COMMITTEE REPORT

March 19, 1993

Mr. Speaker: We, the committee on Labor report that House Bill 13 (first reading copy -- white) do pass as amended.

Signed: _____
Tom Nelson, Chair

And, that such amendments read:

1. Title, line 9.
Following: "~~COMMISSIONER;~~"
Insert: "PERMITTING THE GOVERNOR TO CONTRACT FOR PRIVATE SECTOR INVOLVEMENT TO LIQUIDATE THE UNFUNDED LIABILITY AND TO MANAGE CLAIMS OF THE OLD FUND AND TO MANAGE CLAIMS OF THE NEW FUND OF THE MONTANA STATE COMPENSATION MUTUAL INSURANCE FUND; CLARIFYING THE COMPENSABILITY OF MENTAL STRESS CLAIMS; PROVIDING THAT THE GOVERNOR SHALL APPOINT THE BOARD OF DIRECTORS OF THE STATE FUND; PROVIDING THAT THE MEMBERS OF THE BOARD OF DIRECTORS AND THE EXECUTIVE DIRECTOR OF THE STATE FUND SERVE AT THE PLEASURE OF THE GOVERNOR;"

2. Title, line 12.
Following: "ACT"
Insert: "FOR PURPOSES OTHER THAN RATEMAKING"

3. Title, line 14.
Following: "APPROPRIATION;"
Insert: "PROVIDING AN APPROPRIATION; REQUIRING THE INSURER TO NOTIFY CLAIMANTS OF BENEFITS AND ENTITLEMENTS USING INFORMATION PROVIDED BY THE DEPARTMENT;"
Strike: "2-4-102"
Insert: "2-15-1019"

4. Title, line 15.
Following: "18-8-103,"
Insert: "33-1-102, 39-71-105, 39-71-606, 39-71-721,"
Following: "39-71-2314,"
Insert: " 39-71-2315,"
Following: "39-71-2316,"
Insert: "39-71-2317,"

5. Title, line 16.
Following: "39-71-2323,"
Strike: "AND"

Committee Vote:
Yes 7, No 4.

621852SC.Hss

Insert: "39-71-2351,"
Following: "39-71-2352,"
Insert: "39-71-2354, AND 39-71-2503,"

6. Page 1, line 18.
Insert: "WHEREAS, the Legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the State Fund as the insurer of last resort, and in making this insurance available, the State Fund has incurred an unfunded liability; and

WHEREAS, the unfunded liability has grown each year despite the fact that there have been numerous attempts to solve the problem by legislation and other methods, but those attempts have not resolved the problem; and

WHEREAS, the Legislature separated the payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990 (the "old fund"), from injuries occurring on or after July 1, 1990 (the "new fund"), and provided revenue options and spending limits; and

WHEREAS, this separation has not eliminated the unfunded liability, which is estimated to be in excess of $400 million; and

WHEREAS, the Joint Select Committee on Workers' Compensation of the 52nd Legislature solicited from private insurance and reinsurance markets proposed solutions to liquidate the old fund unfunded liability; and

WHEREAS, insurance and reinsurance markets responded to the Committee's request for assistance to liquidate the old fund unfunded liability; and

WHEREAS, the Committee reviewed and concurred in a preliminary proposal of one of the insurance and reinsurance markets that the Committee believed provides significant benefits to Montana, including but not limited to:

(1) risk transfer;
(2) profit sharing between the reinsurer and the state;
(3) investment of premiums in Montana financial institutions and investments;
(4) funding and finance options;
(5) security to Montana in the event of contract breach or insolvency of the reinsurer;
(6) industry best claims management and administration; and
(7) development of clean industry private sector jobs; and

WHEREAS, there may be merit in the proposal, and it may be in the best interests of Montana to proceed with the negotiations with the reinsurer.

THEREFORE, the Legislature finds it appropriate to empower the Governor to fully investigate and negotiate a reinsurance solution.

7. Page 1, line 20 through page 5, line 6
Strike: section 1 in its entirety
Renumber: subsequent sections

8. Page 6, following line 12.
Insert: "NEW SECTION. Section 1. Liquidation of old fund liability. (1) (a) The governor is authorized to negotiate the liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, if an agreement can be reached that is in the best interests of Montana. The scope of any negotiated agreement may include but may not exceed all of the rights, privileges, liabilities, and duties of the state fund with respect to all claims arising prior to July 1, 1990.

(b) The governor may not enter into an agreement that pays cash or assets in an aggregate amount that exceeds $400 million to the other parties to the agreements.

(c) Any contract finalized by the governor must contain a provision that the contract is void unless necessary financing to fund the unfunded liability has been provided by the 1993 legislature.

(d) To be effective, a contract must be finalized by the governor within 120 days of [the effective date of this section].

(e) Any contract finalized by the governor may require reinsurance premium payments by the state to be used to liquidate the old fund liability.

(2) Any entity entering into an agreement with Montana under [section 2] or this section shall submit an annual report to the legislative audit committee. The first report is due 12 months after the agreement is finalized and thereafter may be submitted on a fiscal year basis.

(3) Any negotiations or agreements entered into pursuant to [section 2] and this section are not subject to the competitive bidding requirements of Title 18, chapter 4.

(4) A negotiation or an agreement entered into pursuant to [section 2] is not subject to the privatization plan requirements of Title 2, chapter 8, part 3.

NEW SECTION. Section 2. Claims settlement of new fund claims -- new fund management. As part of the negotiated liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, the governor may negotiate for claims settlement of the claims of persons whose benefits have not been determined under a claim based on an injury occurring on or after July 1, 1990, and for services with respect to the new fund of the state fund, including but not limited to claims management services, third-party administration, and medical cost containment agreements if the contracted services are in the best interests of the state. An agreement under this section is valid only if it is part of an agreement that meets

the requirements of [section 1].

NEW SECTION. Section 3. Audit of contracted services and old fund liquidation. Any proposal involving the private sector in liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, or in claims settlement and management of the new fund of the state fund must provide for audit and reporting mechanisms in compliance with 39-71-2361.

NEW SECTION. Section 4. Mutually agreeable lump-sum settlements. Beginning July 1, 1993, a workers' compensation claimant and the state fund or a reinsurer may, regardless of the lump-sum law in effect on the date of the injury, mutually agree to a lump-sum settlement of a claim. If a mutual agreement is not reached, the lump-sum law in effect on the date of the injury applies.

Section 5. Section 39-71-721, MCA, is amended to read:

"39-71-721. Compensation for injury causing death -- limitation. Except as provided in [section 4]:

(1) (a) ~~If~~ if an injured employee dies and the injury was the proximate cause of ~~such~~ death, then the beneficiary of the deceased is entitled to the same compensation as though the death occurred immediately following the injury. A beneficiary's eligibility for benefits commences after the date of death, and the benefit level is established as set forth in subsection (2).

(b) ~~The~~ the insurer is entitled to recover any overpayments or compensation paid in a lump sum to a worker prior to death but not yet recouped. The insurer shall recover ~~such~~ the payments from the beneficiary's biweekly payments as provided in 39-71-741(5).

(2) ~~To~~ to beneficiaries as defined in 39-71-116(3)(a) through (3)(d), weekly compensation benefits for an injury causing death are 66 2/3% of the decedent's wages. The maximum weekly compensation benefit may not exceed the state's average weekly wage at the time of injury. The minimum weekly compensation benefit is 50% of the state's average weekly wage, but in no event may it exceed the decedent's actual wages at the time of ~~his~~ death.

(3) ~~To~~ to beneficiaries as defined in 39-71-116(3)(e) and (3)(f), weekly benefits must be paid to the extent of the dependency at the time of the injury, subject to a maximum of 66 2/3% of the decedent's wages. The maximum weekly compensation may not exceed the state's average weekly wage at the time of injury.

(4) ~~If~~ if the decedent leaves no beneficiary as defined in 39-71-116, a lump-sum payment of $3,000 must be paid to the decedent's surviving parent or parents~~.~~;

(5) ~~If~~ if any beneficiary of a deceased employee dies, the right of ~~such~~ the beneficiary to compensation under this chapter ceases. Death benefits must be paid to a surviving spouse for 500 weeks subsequent to the date of the deceased employee's death or until the spouse's remarriage, whichever occurs first. After

benefit payments cease to a surviving spouse, death benefits must be paid to beneficiaries, if any, as defined in 39-71-116(3)(b) through (3)(d).

(6) ~~In~~ in all cases, benefits must be paid to beneficiaries, as defined in 39-71-116~~.~~; and

(7) ~~Benefits~~ benefits paid under this section may not be adjusted for cost of living as provided in 39-71-702.

~~(8) Notwithstanding subsections (2) and (3), beginning July 1, 1987, through June 30, 1991, the maximum weekly compensation benefits for injury causing death may not exceed the state's average weekly wage of $299 established July 1, 1986. Beginning July 1, 1987, through June 30, 1991, the minimum weekly compensation for injury causing death shall be $149.50, which is 50% of the state's average weekly wage established July 1, 1986, but in no event may it exceed the decedent's actual wages at the time of death.~~"

Section 6. Section 39-71-2315, MCA, is amended to read:

"39-71-2315. Management of state fund -- powers and duties of ~~the~~ board. Except with respect to any agreement established pursuant to [sections 1 and 2] and except as provided in 2-15-1019 or 39-71-2317:

(1) ~~The~~ the management and control of the state fund is vested solely in the board~~.~~; and

(2) ~~The~~ the board is vested with full power, authority, and jurisdiction over the state fund. The board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the state fund, either in the administration of the state fund or in connection with the insurance business to be carried on under the provisions of this part, as fully and completely as the governing body of a private mutual insurance carrier, in order to fulfill the objectives and intent of this part. Bonds may not be issued by the board, the state fund, or the executive director."

Section 7. Section 39-71-2351, MCA, is amended to read:

"39-71-2351. Purpose of separation of state fund liability as of July 1, 1990, and of separate funding of claims before and on or after that date. (1) An unfunded liability exists in the state fund. It has existed since at least the mid-1980s and has grown each year. There have been numerous attempts to solve the problem by legislation and other methods. These attempts have alleviated the problem somewhat, but the problem has not been solved.

(2) The legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability. The legislature has determined that the most cost-effective and efficient way to provide a source of funding for and to ensure payment of the

unfunded liability and the best way to administer the unfunded liability is to:

(a) separate the liability of the state fund on the basis of whether a claim is for an injury resulting from an accident that occurred before July 1, 1990, or an accident that occurs on or after that date;

(b) extend the payroll tax imposed by 39-71-2503 and dedicate the tax money first to the repayment of bonds issued under 39-71-2354 and 39-71-2355 and then to the repayment of loans given under 39-71-2354 and 39-71-2355, to payment of premiums for a negotiated liquidation of the unfunded liability of the old fund of the state fund as provided in [section 1], and the direct payment of the costs of administering and paying claims for injuries from accidents that occurred before July 1, 1990.

~~(3) The legislature further determines that in order to prevent the creation of a new unfunded liability with respect to claims for injuries for accidents that occur on or after July 1, 1990, certain duties of the state fund should be clarified and legislative oversight of the state fund should be increased.~~"

Section 8. Section 39-71-2354, MCA, is amended to read:

"39-71-2354. Use of payroll tax proceeds -- loans -- bonds. (1) Taxes collected under 39-71-2503 may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990, including the cost of repaying bonds issued and loan proceeds given under 39-71-2355 and this section and any premium payments that may be required by an agreement made pursuant to [section 1]. If the state fund determines that, for the next 1 or more years following the date of the determination, the tax revenue, together with funds in the account required by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, will be insufficient to administer and pay those claims, the state fund may, through its board of directors, request the budget director to certify to the board of investments that additional funding is necessary. If the budget director agrees with the state fund's board of directors that additional funding is necessary, the budget director shall certify to the board of investments the amount that the budget director determines is necessary to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Except as provided in subsection (2), the board of investments shall, at times and in amounts it considers necessary or advisable, finance the amount certified by the budget director by giving the state fund the proceeds of a loan or a bond issue to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. ~~Loans must be from reserves accumulated from premiums paid to the state fund based upon wages payable on or after July 1, 1990.~~ In the event that loans are necessary for an agreement

established in accordance with [sections 1 and 2], the governor is authorized to pursue internal and external financing that is in the best interests of the state. The board of investments shall choose the method of financing that is most cost-effective for the state fund. A loan must bear interest at the rate the money would earn in the pooled investment fund required by 17-6-203. The board of investments may also, upon request of the board of directors of the state fund, give the state fund the proceeds of a bond issue, to be used to pay off loans made under 39-71-2355 and this section. Bonds for the state fund must be workers' compensation bonds issued under 39-71-2355.

(2) ~~The~~ Except for any agreement established pursuant to [sections 1 and 2], the total amount of loan proceeds given to the state fund plus workers' compensation bonds issued under 39-71-2355, except bonds issued to repay loans as provided for in subsection (1), may not exceed $220 million. All loan and bond proceeds given to the state fund must be repaid to the board of investments before July 1, 2020."

Section 9. Section 39-71-2503, MCA, is amended to read:

"39-71-2503. Workers' compensation payroll tax. (1) (a) There is imposed on each employer a workers' compensation payroll tax in an amount equal to 0.28% of the employer's payroll in the preceding calendar quarter for all employments covered under 39-71-401, except that if an employer is subject to 15-30-204(2), the tax is an amount equal to 0.28% of the employer's payroll in the preceding week. This payroll tax must be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990, or for payment of those claims under [section 1]. If one or more loans or bonds are outstanding, the tax must be continued at the 0.28% rate and the legislature may not modify the tax rate, the use of the tax proceeds, or this section in a manner that reduces the security for repayment of the outstanding loans or bonds, except that the legislature may forgive payment of the tax or reduce the tax rate for any 12-month period if the workers' compensation bond repayment account contains on the first day of that period an amount, regardless of the source, that is in excess of the reserve maintained in the account and that is equal to the amount needed to pay and dedicated to the payment of the principal, premium, and interest that must be paid during that period on the outstanding loans or bonds. The legislature may not increase the tax rate except upon a two-thirds vote of each house.

(b) Each employer shall maintain the records the department requires concerning the employer's payroll. The records are subject to inspection by the department and its employees and agents during regular business hours.

(2) All collections of the tax are appropriated to and must be deposited as received in the tax account. The tax is in

addition to any other tax or fee assessed against employers subject to the tax.

(3) (a) On or before the last day of April, July, October, and January, each employer subject to the tax shall file a return in the form and containing the information required by the department and, except as provided in subsection (3)(b), pay the amount of tax required by this section to be paid on the employer's payroll for the preceding calendar quarter.

(b) An employer subject to 15-30-204(2) shall remit to the department a weekly payment with its weekly withholding tax payment in the amount required by subsection (1)(a).

(c) A tax payment required by subsection (1)(a) must be made with the return filed pursuant to 15-30-204. The department shall first credit a payment to the liability under 15-30-202 and credit any remainder to the workers' compensation tax account provided in 39-71-2504.

(4) An employer's officer or employee with the duty to collect, account for, and pay to the department the amounts due under this section who willfully fails to pay an amount is liable to the state for the unpaid amount and any penalty and interest relating to that amount.

(5) Returns and remittances under subsection (3) and any information obtained by the department during an audit are subject to the provisions of 15-30-303, but the department may disclose the information to the department of labor and industry under circumstances and conditions that ensure the continued confidentiality of the information.

(6) The department of labor and industry and the state fund shall, on July 1, 1991, or as soon after that date as possible, give the department a list of all employers having coverage under any plan administered or regulated by the department of labor and industry and the state fund. After the lists have been given to the department, the department of labor and industry and the state fund shall update the lists weekly. The department of labor and industry and the state fund shall provide the department with access to their computer data bases and paper files and records for the purpose of the department's administration of the tax imposed by this section.

(7) The provisions of Title 15, chapter 30, not in conflict with the provisions of this part regarding administration, remedies, enforcement, collections, hearings, interest, deficiency assessments, credits for overpayment, statute of limitations, penalties, and department rulemaking authority apply to the tax, to employers, and to the department."

Section 10. Section 33-1-102, MCA, is amended to read:

"33-1-102. Compliance required -- exceptions -- health service corporations -- health maintenance organizations -- governmental insurance programs. (1) A person may not transact a business of insurance in Montana or relative to a subject

resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations to the extent that the existence and operations of those organizations are authorized by chapter 31.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, [sections 1 and 2], and related sections.

(6) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

(7) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(8) (a) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program."

Section 11. Section 39-71-105, MCA, is amended to read:

"39-71-105. Declaration of public policy. For the purposes of interpreting and applying Title 39, chapters 71 and 72, the following is the public policy of this state:

(1) It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage supplement and medical benefits to a worker suffering from a work-related injury or disease. Wage-loss benefits are not intended to make an injured worker whole; they are intended to assist a worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual

wages lost as a result of a work-related injury or disease.

(2) A worker's removal from the work force due to a work-related injury or disease has a negative impact on the worker, the worker's family, the employer, and the general public. Therefore, it is an objective of the workers' compensation system to return a worker to work as soon as possible after the worker has suffered a work-related injury or disease.

(3) Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering. Claimants should be able to speedily obtain benefits, and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

(4) Title 39, chapters 71 and 72, must be construed according to their terms and not liberally in favor of any party.

(5) It is the intent of the legislature that stress claims, often referred to as "mental-mental claims" and "mental-physical claims", are not compensable under Montana's workers' compensation and occupational disease laws. The legislature recognizes that these claims are difficult to objectively verify and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. In addition, not all injuries are compensable under the present system, as is the case with repetitive injury claims, and it is within the legislature's authority to define the limits of the workers' compensation and occupational disease system."

Section 12. Section 2-15-1019, MCA, is amended to read:

"2-15-1019. Board of directors of the state compensation mutual insurance fund. (1) There is a board of directors of the state compensation mutual insurance fund.

(2) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may employ its own staff.

(3) The board may provide for its own office space and the office space of the state fund.

(4) The board consists of five members appointed by the governor. The executive director of the state fund is an ex officio nonvoting member.

(5) At least three of the five members shall represent state fund policyholders and may be employees of state fund policyholders. At least three members of the board shall represent private, for-profit enterprises. A member of the board may not:

(a) represent or be an employee of an insurance company that is licensed to transact workers' compensation insurance under compensation plan No. 2; or

(b) be an employee of a self-insured employer under compensation plan No. 1.

(6) A member ~~is appointed for a term of 4 years~~ serves at the pleasure of the governor. The governor may remove a member at any time and appoint a new member to the office. The terms of board members must be staggered. A member of the board may serve no more than two 4-year terms. A member shall hold office until a successor is appointed and qualified.

(7) The members must be appointed and compensated in the same manner as members of a quasi-judicial board as provided in 2-15-124, except that the requirement that at least one member be an attorney does not apply and except that the members serve at the pleasure of the governor."

Section 13. Section 39-71-2317, MCA, is amended to read:

"39-71-2317. Appointment of executive director -- management staff. (1) The ~~board~~ governor shall, at the beginning of each gubernatorial term, appoint an executive director of the state fund who has general responsibility for the operations of the state fund.

(2) The executive director serves at the pleasure of the governor. The governor may remove the executive director at any time and appoint a new executive director to the office.

(3) The executive director must have executive level experience, with knowledge of the insurance industry. The executive director must receive compensation as set by the board ~~and serve at the pleasure of the board~~. The executive director may hire the management staff of the state fund, each of whom serves at the pleasure of the executive director.""

Renumber: subsequent sections

9. Page 7, line 7.
Following: "~~(1)~~"
Insert: "(1)"

10. Page 7, line 19.
Following: ";"
Insert: "(2) The state fund is subject to laws that generally apply to state agencies, including but not limited to Title 2, chapters 2, 3, 4 (only as provided in 39-71-2316), and 6, and Title 5, chapter 13. The state fund is not exempt from a law that applies to state agencies unless that law specifically exempts the state fund by name and clearly states that it is exempt from that law."

11. Page 8, line 4.

Following: "~~employer~~"
Insert: "to cover its administrative costs for coverage of a small employer"

12. Page 8, line 15.
Strike: ";"
Insert: ". Premium rates for classifications may only be adopted and changed using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts 2 through 4. After such rules have been adopted, the state fund need not follow the rulemaking provisions of Title 2, chapter 4, when changing classifications and premium rates. The contested case rights and provisions of Title 2, chapter 4, do not apply to an employer's classification or premium rate."

13. Page 10, lines 1 and 25.
Strike: "(8)"

14. Page 16, line 15.
Following: line 14
Insert: "
NEW SECTION. Section 24. Appropriation. There is an appropriation of $35,000 for each fiscal year of the biennium beginning July 1, 1993, to the legislative auditor's office for contracted services for the duties required to be performed pursuant to [section 20] to be paid by the state fund from the funds appropriated in [section 22].

Section 25. Section 39-71-606, MCA, is amended to read:
"39-71-606. Insurer to accept or deny claim within thirty days of receipt -- notice of denial -- notice to employer. (1) Every insurer under any plan for the payment of workers' compensation benefits shall, within 30 days of receipt of a claim for compensation, either accept or deny the claim, and if denied shall inform the claimant and the department in writing of such denial.
(2) The department shall make available to insurers for distribution to claimants sufficient copies of a document describing current benefits and entitlements available under Title 39, chapter 71. Upon receipt of a claim, each insurer shall promptly notify the claimant in writing of potential benefits and entitlements available by providing the claimant a copy of the document prepared by the department.
(3) Upon the request of an employer it insures, an insurer shall notify the employer of all compensation benefits that are ongoing and are being charged against that employer's account.""

Renumber: subsequent sections

15. Page 17, following line 2.
Insert: "NEW SECTION. Section 28. Coordination with Occupational Disease Act of Montana. For purposes of [sections 1 through 4] and the administration of Title 39, chapter 72, a reference in [sections 1 through 4] to an injury resulting from an accident includes a claim for an injury resulting from an accident that includes a disablement, as defined in 39-72-102(4).

NEW SECTION. Section 29. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."
Renumber: subsequent sections

16. Page 17, line 3.
Following: "instruction."
Insert: "(1) [Sections 1 through 3] are intended to be codified as an integral part of Title 39, chapter 71, and the provisions of Title 39, chapter 71, apply to [sections 1 through 3].
(2) [Section 4] is intended to be codified as an integral part of Title 39, chapter 71, part 23, and the provisions of Title 39, chapter 71, part 23, apply to [section 4]. (3)"

17. Page 17, lines 4 and 7.
Strike: "7"
Insert: "19"
Strike: "9"
Insert: "21"

18. Page 17, lines 9 through 13.
Strike: "[SECTION 9" on line 9 through "1993." on line 13
Insert: "[Sections 1 through 3, 10 through 13, 21, and 26 through 30 and this section] are effective on passage and approval.
(2) [Sections 4 through 9] are effective on finalization of an agreement entered into by the governor and the reinsurer, as provided in [section 1].
(3) [Sections 14 through 20 and 22 through 25] are effective July 1, 1993.
(4) [Section 21] applies to the budget for fiscal year 1994."

EXHIBIT #6
DATE 3/18/93
HB WC bills

Amendments to House Bill No. 13
Second Reading Copy

Requested by Rep. Cocchiarella
For the Committee on Labor and Employment Relations

Prepared by Susan B. Fox
March 18, 1993

1. Title, line 14.
Following: "APPROPRIATION;"
Insert: "REQUIRING THE INSURER TO NOTIFY CLAIMANTS OF BENEFITS AND ENTITLEMENTS USING INFORMATION PROVIDED BY THE DEPARTMENT;"

2. Title, line 15.
Following: "18-8-103,"
Insert: "39-71-606,"

3. Page 16, line 15.
Following: line 14
Insert: "**Section 12.** Section 39-71-606, MCA, is amended to read:

"**39-71-606. Insurer to accept or deny claim within thirty days of receipt -- notice of denial -- notice to employer.** (1) Every insurer under any plan for the payment of workers' compensation benefits shall, within 30 days of receipt of a claim for compensation, either accept or deny the claim, and if denied shall inform the claimant and the department in writing of such denial.

(2) The department shall make available to insurers for distribution to claimants sufficient copies of a document describing current benefits and entitlements available under Title 39, chapter 71. Upon receipt of a claim, each insurer shall promptly notify the claimant in writing of potential benefits and entitlements available by providing the claimant a copy of the document prepared by the department.

(3) Upon the request of an employer it insures, an insurer shall notify the employer of all compensation benefits that are ongoing and are being charged against that employer's account.""

Renumber: subsequent sections

4. Page 17, line 12.
Strike: "14"
Insert: "15"

Amendments to House Bill No. 13
Second Reading Copy

Requested by Rep. Simon
For the Committee on Labor and Employment Relations

Prepared by Susan B. Fox
March 16, 1993

1. Title, line 14.
Following: "APPROPRIATION;"
Insert: "PROVIDING AN APPROPRIATION;"

2. Page 16, line 15.
Following: line 14
Insert: "NEW SECTION. **Section 12. Appropriation.** There is an appropriation of $35,000 for each fiscal year of the biennium beginning July 1, 1993, to the legislative auditor's office for contracted services for the duties required to be performed pursuant to [section 8] to be paid by the state fund from the funds appropriated in [section 10]."
Renumber: subsequent sections

3. Page 17, line 12.
Strike: "14"
Insert: "15"

Amendments to House Bill No. 13
Second Reading Copy

Requested by Representative Benedict
For the Committee on Labor

Prepared by Bart Campbell
March 12, 1993

1. Title, line 9.
Following: "~~COMMISSIONER,~~"
Insert: "PERMITTING THE GOVERNOR TO CONTRACT FOR PRIVATE SECTOR INVOLVEMENT TO LIQUIDATE THE UNFUNDED LIABILITY AND TO MANAGE CLAIMS OF THE OLD FUND AND TO MANAGE CLAIMS OF THE NEW FUND OF THE MONTANA STATE COMPENSATION MUTUAL INSURANCE FUND; CLARIFYING THE COMPENSABILITY OF MENTAL STRESS CLAIMS; PROVIDING THAT THE GOVERNOR SHALL APPOINT THE BOARD OF DIRECTORS OF THE STATE FUND; PROVIDING THAT THE MEMBERS OF THE BOARD OF DIRECTORS AND THE EXECUTIVE DIRECTOR OF THE STATE FUND SERVE AT THE PLEASURE OF THE GOVERNOR;"

2. Title, line 12.
Following: "ACT"
Insert: "FOR PURPOSES OTHER THAN RATEMAKING"

3. Title, line 14.
Strike: "2-4-102"
Insert: "2-15-1019"

4. Title, line 15.
Following: "18-8-103,"
Insert: "33-1-102, 39-71-105, 39-71-721,"
Following: "39-71-2314,"
Insert: " 39-71-2315,"
Following: "39-71-2316,"
Insert: "39-71-2317,"

5. Title, line 16.
Following: "39-71-2323,"
Strike: "AND"
Insert: "39-71-2351,"
Following: "39-71-2352,"
Insert: "39-71-2354, AND 39-71-2503,"

6. Page 1, line 18.
Insert: "WHEREAS, the Legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the State Fund as the insurer of last resort, and in making this insurance available, the State Fund has incurred an unfunded liability; and

WHEREAS, the unfunded liability has grown each year despite the fact that there have been numerous attempts to solve the problem by legislation and other methods, but those attempts have not resolved the problem; and

WHEREAS, the Legislature separated the payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990 (the "old fund"), from injuries occurring on or after July 1, 1990 (the "new fund"), and provided revenue options and spending limits; and

WHEREAS, this separation has not eliminated the unfunded liability, which is estimated to be in excess of $400 million; and

WHEREAS, the Joint Select Committee on Workers' Compensation of the 52nd Legislature solicited from private insurance and reinsurance markets proposed solutions to liquidate the old fund unfunded liability; and

WHEREAS, insurance and reinsurance markets responded to the Committee's request for assistance to liquidate the old fund unfunded liability; and

WHEREAS, the Committee reviewed and concurred in a preliminary proposal of one of the insurance and reinsurance markets that the Committee believed provides significant benefits to Montana, including but not limited to:

(1) risk transfer;

(2) profit sharing between the reinsurer and the state;

(3) investment of premiums in Montana financial institutions and investments;

(4) funding and finance options;

(5) security to Montana in the event of contract breach or insolvency of the reinsurer;

(6) industry best claims management and administration; and

(7) development of clean industry private sector jobs; and

WHEREAS, there may be merit in the proposal, and it may be in the best interests of Montana to proceed with the negotiations with the reinsurer.

THEREFORE, the Legislature finds it appropriate to empower the Governor to fully investigate and negotiate a reinsurance solution.

7. Page 1, line 20 through page 5, line 6
Strike: section 1 in its entirety
Renumber: subsequent sections

8. Page 6, following line 12.
Insert: "NEW SECTION. Section 1. **Liquidation of old fund liability.** (1) (a) The governor is authorized to negotiate the liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, if an agreement can be reached that is in the best interests of Montana. The scope of any negotiated agreement may include but may not exceed all of the rights, privileges, liabilities, and duties of the state fund with respect to all claims arising prior to July 1, 1990.

(b) The governor may not enter into an agreement that pays more than $400 million to the other party to the agreement.

(c) Any contract finalized by the governor must contain a provision that the contract is void unless necessary financing to fund the unfunded liability has been provided by the 1993 legislature.

(d) To be effective, a contract must be finalized by the governor within 120 days of [the effective date of this section].

(e) Any contract finalized by the governor may require reinsurance premium payments by the state to be used to liquidate the old fund liability.

(2) Any entity entering into an agreement with Montana under [section 2] or this section shall submit an annual report to the legislative audit committee. The first report is due 12 months after the agreement is finalized and thereafter may be submitted on a fiscal year basis.

(3) Any negotiations or agreements entered into pursuant to [section 2] and this section are not subject to the competitive bidding requirements of Title 18, chapter 4.

(4) A negotiation or an agreement entered into pursuant to [section 2] is not subject to the privatization plan requirements of Title 2, chapter 8, part 3.

NEW SECTION. Section 2. **Claims settlement of new fund claims -- new fund management.** As part of the negotiated liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, the governor may negotiate for claims settlement of the claims of persons whose benefits have not been determined under a claim based on an injury occurring on or after July 1, 1990, and for services with respect to the new fund of the state fund, including but not limited to claims management services, third-party administration, and medical cost containment agreements if the contracted services are in the best interests of the state. An agreement under this section is valid only if it is part of an agreement that meets the requirements of [section 1].

NEW SECTION. Section 3. **Audit of contracted services and old fund liquidation.** Any proposal involving the private sector in liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, or in claims settlement and management of the new fund of the state fund must provide for audit and reporting mechanisms in compliance with 39-71-2361.

NEW SECTION. Section 4. **Mutually agreeable lump-sum settlements.** Beginning July 1, 1993, a workers' compensation claimant and the state fund or a reinsurer may, regardless of the lump-sum law in effect on the date of the injury, mutually agree to a lump-sum settlement of a claim. If a mutual agreement is not reached, the lump-sum law in effect on the date of the injury applies.

Section 5. Section 39-71-721, MCA, is amended to read:

"39-71-721. **Compensation for injury causing death -- limitation.** Except as provided in [section 4]:

(1) (a) ~~If~~ if an injured employee dies and the injury was the proximate cause of ~~such~~ death, then the beneficiary of the deceased is entitled to the same compensation as though the death occurred immediately following the injury. A beneficiary's eligibility for benefits commences after the date of death, and the benefit level is established as set forth in subsection (2).

(b) ~~The~~ the insurer is entitled to recover any overpayments or compensation paid in a lump sum to a worker prior to death but not yet recouped. The insurer shall recover ~~such~~ the payments from the beneficiary's biweekly payments as provided in 39-71-

741(5).

(2) ~~To~~ to beneficiaries as defined in 39-71-116(3)(a) through (3)(d), weekly compensation benefits for an injury causing death are 66 2/3% of the decedent's wages. The maximum weekly compensation benefit may not exceed the state's average weekly wage at the time of injury. The minimum weekly compensation benefit is 50% of the state's average weekly wage, but in no event may it exceed the decedent's actual wages at the time of ~~his~~ death.

(3) ~~To~~ to beneficiaries as defined in 39-71-116(3)(e) and (3)(f), weekly benefits must be paid to the extent of the dependency at the time of the injury, subject to a maximum of 66 2/3% of the decedent's wages. The maximum weekly compensation may not exceed the state's average weekly wage at the time of injury.

(4) ~~If~~ if the decedent leaves no beneficiary as defined in 39-71-116, a lump-sum payment of $3,000 must be paid to the decedent's surviving parent or parents~~.~~;

(5) ~~If~~ if any beneficiary of a deceased employee dies, the right of ~~such~~ the beneficiary to compensation under this chapter ceases. Death benefits must be paid to a surviving spouse for 500 weeks subsequent to the date of the deceased employee's death or until the spouse's remarriage, whichever occurs first. After benefit payments cease to a surviving spouse, death benefits must be paid to beneficiaries, if any, as defined in 39-71-116(3)(b) through (3)(d).

(6) ~~In~~ in all cases, benefits must be paid to beneficiaries, as defined in 39-71-116~~.~~; and

(7) ~~Benefits~~ benefits paid under this section may not be adjusted for cost of living as provided in 39-71-702.

~~(8) Notwithstanding subsections (2) and (3), beginning July 1, 1987, through June 30, 1991, the maximum weekly compensation benefits for injury causing death may not exceed the state's average weekly wage of $299 established July 1, 1986. Beginning July 1, 1987, through June 30, 1991, the minimum weekly compensation for injury causing death shall be $149.50, which is 50% of the state's average weekly wage established July 1, 1986, but in no event may it exceed the decedent's actual wages at the time of death.~~"

Section 6. Section 39-71-2315, MCA, is amended to read:

"39-71-2315. Management of state fund -- powers and duties of ~~the~~ board. Except with respect to any agreement established pursuant to [sections 1 and 2] and except as provided in 2-15-1019 or 39-71-2317:

(1) ~~The~~ the management and control of the state fund is vested solely in the board~~.~~; and

(2) ~~The~~ the board is vested with full power, authority, and jurisdiction over the state fund. The board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the state fund, either in the administration of the state fund or in connection with the insurance business to be carried on under the provisions of this part, as fully and completely as the governing body of a private mutual insurance carrier, in order to fulfill the objectives and intent of this part. Bonds may not be issued by the board, the state fund, or the executive director."

Section 7. Section 39-71-2351, MCA, is amended to read:

"39-71-2351. Purpose of separation of state fund liability as of July 1, 1990, and of separate funding of claims before and on or after that date. (1) An unfunded liability exists in the state fund. It has existed since at least the mid-1980s and has grown each year. There have been numerous attempts to solve the problem by legislation and other methods. These attempts have alleviated the problem somewhat, but the problem has not been solved.

(2) The legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability. The legislature has determined that the most cost-effective and efficient way to provide a source of funding for and to ensure payment of the unfunded liability and the best way to administer the unfunded liability is to:

(a) separate the liability of the state fund on the basis of whether a claim is for an injury resulting from an accident that occurred before July 1, 1990, or an accident that occurs on or after that date;

(b) extend the payroll tax imposed by 39-71-2503 and dedicate the tax money first to the repayment of bonds issued under 39-71-2354 and 39-71-2355 and then to the repayment of loans given under 39-71-2354 and 39-71-2355, to payment of premiums for a negotiated liquidation of the unfunded liability of the old fund of the state fund as provided in [section 1], and the direct payment of the costs of administering and paying claims for injuries from accidents that occurred before July 1, 1990.

~~(3) The legislature further determines that in order to prevent the creation of a new unfunded liability with respect to claims for injuries for accidents that occur on or after July 1, 1990, certain duties of the state fund should be clarified and legislative oversight of the state fund should be increased.~~"

Section 8. Section 39-71-2354, MCA, is amended to read:

"39-71-2354. Use of payroll tax proceeds -- loans -- bonds. (1) Taxes collected under 39-71-2503 may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990, including the cost of repaying bonds issued and loan proceeds given under 39-71-2355 and this section and any premium payments that may be required by an agreement made pursuant to [section 1]. If the state fund determines that, for the next 1 or more years following the date of the determination, the tax revenue, together with funds in the account required by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, will be insufficient to administer and pay those claims, the state fund may, through its board of directors, request the budget director to certify to the board of investments that additional funding is necessary. If the budget director agrees with the state fund's board of directors that additional funding is necessary, the budget director shall certify to the board of investments the amount that the budget director determines is necessary to

administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Except as provided in subsection (2), the board of investments shall, at times and in amounts it considers necessary or advisable, finance the amount certified by the budget director by giving the state fund the proceeds of a loan or a bond issue to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. ~~Loans must be from reserves accumulated from premiums paid to the state fund based upon wages payable on or after July 1, 1990.~~ In the event that loans are necessary for an agreement established in accordance with [sections 1 and 2], the governor is authorized to pursue internal and external financing that is in the best interests of the state. The board of investments shall choose the method of financing that is most cost-effective for the state fund. A loan must bear interest at the rate the money would earn in the pooled investment fund required by 17-6-203. The board of investments may also, upon request of the board of directors of the state fund, give the state fund the proceeds of a bond issue, to be used to pay off loans made under 39-71-2355 and this section. Bonds for the state fund must be workers' compensation bonds issued under 39-71-2355.

(2) ~~The~~ Except for any agreement established pursuant to [sections 1 and 2], the total amount of loan proceeds given to the state fund plus workers' compensation bonds issued under 39-71-2355, except bonds issued to repay loans as provided for in subsection (1), may not exceed $220 million. All loan and bond proceeds given to the state fund must be repaid to the board of investments before July 1, 2020."

Section 9. Section 39-71-2503, MCA, is amended to read:

"**39-71-2503. Workers' compensation payroll tax.** (1) (a) There is imposed on each employer a workers' compensation payroll tax in an amount equal to 0.28% of the employer's payroll in the preceding calendar quarter for all employments covered under 39-71-401, except that if an employer is subject to 15-30-204(2), the tax is an amount equal to 0.28% of the employer's payroll in the preceding week. This payroll tax must be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990, or for payment of those claims under [section 1]. If one or more loans or bonds are outstanding, the tax must be continued at the 0.28% rate and the legislature may not modify the tax rate, the use of the tax proceeds, or this section in a manner that reduces the security for repayment of the outstanding loans or bonds, except that the legislature may forgive payment of the tax or reduce the tax rate for any 12-month period if the workers' compensation bond repayment account contains on the first day of that period an amount, regardless of the source, that is in excess of the reserve maintained in the account and that is equal to the amount needed to pay and dedicated to the payment of the principal, premium, and interest that must be paid during that period on the outstanding loans or bonds. The legislature may not increase the tax rate except upon a two-thirds vote of each house.

(b) Each employer shall maintain the records the department requires concerning the employer's payroll. The records are

subject to inspection by the department and its employees and agents during regular business hours.

(2) All collections of the tax are appropriated to and must be deposited as received in the tax account. The tax is in addition to any other tax or fee assessed against employers subject to the tax.

(3) (a) On or before the last day of April, July, October, and January, each employer subject to the tax shall file a return in the form and containing the information required by the department and, except as provided in subsection (3)(b), pay the amount of tax required by this section to be paid on the employer's payroll for the preceding calendar quarter.

(b) An employer subject to 15-30-204(2) shall remit to the department a weekly payment with its weekly withholding tax payment in the amount required by subsection (1)(a).

(c) A tax payment required by subsection (1)(a) must be made with the return filed pursuant to 15-30-204. The department shall first credit a payment to the liability under 15-30-202 and credit any remainder to the workers' compensation tax account provided in 39-71-2504.

(4) An employer's officer or employee with the duty to collect, account for, and pay to the department the amounts due under this section who willfully fails to pay an amount is liable to the state for the unpaid amount and any penalty and interest relating to that amount.

(5) Returns and remittances under subsection (3) and any information obtained by the department during an audit are subject to the provisions of 15-30-303, but the department may disclose the information to the department of labor and industry under circumstances and conditions that ensure the continued confidentiality of the information.

(6) The department of labor and industry and the state fund shall, on July 1, 1991, or as soon after that date as possible, give the department a list of all employers having coverage under any plan administered or regulated by the department of labor and industry and the state fund. After the lists have been given to the department, the department of labor and industry and the state fund shall update the lists weekly. The department of labor and industry and the state fund shall provide the department with access to their computer data bases and paper files and records for the purpose of the department's administration of the tax imposed by this section.

(7) The provisions of Title 15, chapter 30, not in conflict with the provisions of this part regarding administration, remedies, enforcement, collections, hearings, interest, deficiency assessments, credits for overpayment, statute of limitations, penalties, and department rulemaking authority apply to the tax, to employers, and to the department."

Section 10. Section 33-1-102, MCA, is amended to read:

"**33-1-102. Compliance required -- exceptions -- health service corporations -- health maintenance organizations -- governmental insurance programs.** (1) A person may not transact a business of insurance in Montana or relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations to the extent that the existence and operations of those organizations are authorized by chapter 31.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, [sections 1 and 2], and related sections.

(6) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

(7) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(8) (a) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program."

Section 11. Section 39-71-105, "MCA, is amended to read:

"**39-71-105. Declaration of public policy.** For the purposes of interpreting and applying Title 39, chapters 71 and 72, the following is the public policy of this state:

(1) It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage supplement and medical benefits to a worker suffering from a work-related injury or disease. Wage-loss benefits are not intended to make an injured worker whole; they are intended to assist a worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

(2) A worker's removal from the work force due to a work-related injury or disease has a negative impact on the worker, the worker's family, the employer, and the general public. Therefore, it is an objective of the workers' compensation system to return a worker to work as soon as possible after the worker has suffered a work-related injury or disease.

(3) Montana's workers' compensation and occupational

disease insurance systems are intended to be primarily self-administering. Claimants should be able to speedily obtain benefits, and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

(4) Title 39, chapters 71 and 72, must be construed according to their terms and not liberally in favor of any party.

(5) It is the intent of the legislature that stress claims, often referred to as "mental-mental claims" and "mental-physical claims", are not compensable under Montana's workers' compensation and occupational disease laws. The legislature recognizes that these claims are difficult to objectively verify and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. In addition, not all injuries are compensable under the present system, as is the case with repetitive injury claims, and it is within the legislature's authority to define the limits of the workers' compensation and occupational disease system."

{*Internal References to 39-71-105: None.*}

Section 12. Section 2-15-1019, MCA, is amended to read:

"**2-15-1019. Board of directors of the state compensation mutual insurance fund.** (1) There is a board of directors of the state compensation mutual insurance fund.

(2) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may employ its own staff.

(3) The board may provide for its own office space and the office space of the state fund.

(4) The board consists of five members appointed by the governor. The executive director of the state fund is an ex officio nonvoting member.

(5) At least three of the five members shall represent state fund policyholders and may be employees of state fund policyholders. At least three members of the board shall represent private, for-profit enterprises. A member of the board may not:

(a) represent or be an employee of an insurance company that is licensed to transact workers' compensation insurance under compensation plan No. 2; or

(b) be an employee of a self-insured employer under compensation plan No. 1.

(6) A member ~~is appointed for a term of 4 years~~ serves at the pleasure of the governor. The governor may remove a member at any time and appoint a new member to the office. The terms of board members must be staggered. A member of the board may serve no more than two 4-year terms. A member shall hold office until a successor is appointed and qualified.

(7) The members must be appointed and compensated in the same manner as members of a quasi-judicial board as provided in

2-15-124, except that the requirement that at least one member be an attorney does not apply and except that the members serve at the pleasure of the governor."
{*Internal References to 2-15-1019: 39-71-2312*}

Section 13. Section 39-71-2317, MCA, is amended to read:
"39-71-2317. Appointment of executive director -- management staff. (1) The ~~board~~ governor shall, at the beginning of each gubernatorial term, appoint an executive director of the state fund who has general responsibility for the operations of the state fund.
(2) The executive director serves at the pleasure of the governor. The governor may remove the executive director at any time and appoint a new executive director to the office.
(3) The executive director must have executive level experience, with knowledge of the insurance industry. The executive director must receive compensation as set by the board ~~and serve at the pleasure of the board~~. The executive director may hire the management staff of the state fund, each of whom serves at the pleasure of the executive director.""
{*Internal References to 39-71-2317: *39-71-431*}
Renumber: subsequent sections

9. Page 7, line 7.
Following: "~~(1)~~"
Insert: "(1)"

10. Page 7, line 19.
Following: "~~.~~"
Insert: "(2) The state fund is subject to laws that generally apply to state agencies, including but not limited to Title 2, chapters 2, 3, 4 (only as provided in 39-71-2316), and 6, and Title 5, chapter 13. The state fund is not exempt from a law that applies to state agencies unless that law specifically exempts the state fund by name and clearly states that it is exempt from that law."

11. Page 8, line 4.
Following: "~~employer~~"
Insert: "to cover its administrative costs for coverage of a small employer"

12. Page 8, line 15.
Strike: ":"
Insert: ". Premium rates for classifications may only be adopted and changed using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts 2 through 4. After such rules have been adopted, the state fund need not follow the rulemaking provisions of Title 2, chapter 4, when changing classifications and premium rates. The contested case rights and provisions of Title 2, chapter 4, do not apply to an employer's

classification or premium rate."

13. Page 10, lines 1 and 25.
Strike: "(8)"

14. Page 17, following line 2.
Insert: "NEW SECTION. Section 26. **Coordination with Occupational Disease Act of Montana.** For purposes of [sections 1 through 4] and the administration of Title 39, chapter 72, a reference in [sections 1 through 4] to an injury resulting from an accident or to a claim for an injury resulting from an accident includes a disablement, as defined in 39-72-102(4).

NEW SECTION. Section 27. **Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."
Renumber: subsequent sections

15. Page 17, line 3.
Following: "**instruction.**"
Insert: "(1) [Sections 1 through 3] are intended to be codified as an integral part of Title 39, chapter 71, and the provisions of Title 39, chapter 71, apply to [sections 1 through 3].

(2) [Section 4] is intended to be codified as an integral part of Title 39, chapter 71, part 23, and the provisions of Title 39, chapter 71, part 23, apply to [section 4]. (3)"

16. Page 17, lines 4 and 7.
Strike: "7"
Insert: "19"
Strike: "9"
Insert: "21"

17. Page 17, lines 9 through 13.
Strike: "[SECTION 9" on line 9 through "1993." on line 13
Insert: "[Sections 1 through 3, 10 through 13, 21, and 24 through 28 and this section] are effective on passage and approval.

(2) [Sections 4 through 9] are effective on finalization of an agreement entered into by the governor and the reinsurer, as provided in [section 1].

(3) [Sections 14 through 20, 22, and 23] are effective July 1, 1993.

(4) [Section 21] applies to the budget for fiscal year 1994."

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON WORKERS' COMPENSATION

Call to Order: By Senator Tom Towe, on April 1, 1993, at 3:09 PM

ROLL CALL

Members Present:

Sen. Tom Towe, Chair (D)
Sen. Gary Forrester, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Sue Bartlett (D)
Sen. Harry Fritz (D)
Sen. John Harp (R)
Sen. John Hertel (R)
Sen. Bob Hockett (D)
Sen. Tom Keating (R)
Sen. J.D. Lynch (D)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: Senator Jim Burnett (R)

Staff Present: Susan Fox, Legislative Council
Kelsey Chapman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 13, HB 504
Executive Action: None.

HEARING ON HB 13

Opening Statement by Sponsor:

Representative Steve Benedict, House District 64, said HB 13 generally revises workers' compensation laws regarding the compensability of mental stress claims, and gives the Governor the right to appoint the board of directors and the executive director of the State fund. The Governor then can ask for accountability of the board of directors and the executive director, and be himself accountable.

Representative Benedict said HB 13 would give the State Fund budgetary authority to run like a private insurance company;

would exempt the State Fund from the Montana Administrative Procedures Act (MAPA) except for rate making; and would require the Legislative Auditor to annually report to the Governor and Legislature regarding rate adequacy and solvency of the State fund. HB 13 also would require the State Fund to inform injured workers what benefits they were entitled to, and how to access the workers' compensation system. An amendment in the House removed the Governor's ability to privatize many functions of the old and new funds. Representative Benedict said this provision was important to have in HB 13 because the state does not belong in the insurance business. Workers' compensation should be privatized as much as is feasible. Representative Benedict said HB 13 was a key part of the workers' compensation reform package of the 53rd Legislature, and would improve the functioning of the workers' compensation system and the efficiency of the State fund.

Proponents' Testimony:

Pat Sweeney, Executive Director of the State fund, handed out reference sheets (Exhibits 1a - 1d). He said HB 13 revised operation and administration of the State fund, but would not remove statutory requirements for public participation in governmental operations, or other statutory standards. HB 13 would place the State Fund under the supervision of the Legislative Auditor, who would provide an independent third party review of the State fund. Once this annual examination was completed, the Legislative Auditor would report to the Governor, the Legislature, and the board of directors. HB 13 would also require the State Fund work toward obtaining sufficient surplus so as to stabilize its rates.

Mr. Sweeney said the State Fund actuary advised that due to the initial capitalization, the Fund was unable to withstand fluctuations in the insurance business on a year to year basis without periodically having a deficit. HB 13 would require the State Fund to have a 25 percent surplus of its annual premium by the year 2003. Mr. Sweeney said the State Fund was currently operating on money collected from the policy holders through premium payments to the fund.

Mr. Sweeney explained that the State Fund is a state agency limited to the budget the Legislature approves for its operation. HB 13 would allow the board of directors to determine the budget of the State Fund up to a maximum of 15 percent the previous years earned annual premium and send that budget to the Governor and the Legislature for review. This provision of HB 13 would allow the State Fund to adequately staff and handle claims, underwriting, safety, audit, and other operational needs.

Mr. Sweeney said the State fund's claims examiners had caseloads higher than industry standards, as many as 315 cases per examiner. The Fund would rather have caseloads in the area of 225 to 250 cases per examiner. The State Fund could bring in

additional funding through audits if it had more staff. Mr. Sweeney said Exhibit #1a showed Montana as having the lowest expense ratio in the United States. Exhibit #1c showed Montana as having on a five year average the lowest operating expense of any state in the country. Exhibit #1b showed Montana as having the second highest number of policies per employee, behind Utah. He said that Exhibit #1d showed states leading in workers' compensation had aboard of directors setting the budget of their funds.

Mona Jamison, Montana Chapter of the American Physical Therapy Association said she supported HB 13 with the House amendments. She supported having the board of directors and the executive director serving at the pleasure of the Governor and the partial exemption of the State Fund from MAPA. She stated having the executive director of the State Fund serve at the pleasure of the Governor places the director at the same status as every other state agency director. This political accountability would help implement many changes that have been mandated through other legislation. She said this was a significant change, and a way of allowing the State Fund to do its business while being held accountable.

Jim Tutwiler, Montana Chamber of Commerce, said Section 1, page 24 was a good declaration of policy. He said Sections 2 and 3 dealing with the accountability were also merited, and asked the Committee to not amended it out of HB 13. He said the accountability had changed over the years, but wherever the blame for the debt may lie, the State Fund deficit was a state debt. Mr. Tutwiler said the Chamber supported Section 6, page 29, dealing with rate making mechanisms because it provided for public input on procedures. He said the section requiring the State Fund to have a 25 percent surplus of annual premium by 2003 would cause steep premium increases, but there needed to be some surplus in the fund, given the volatile nature of the workers' compensation system. Mr. Tutwiler said allowing 15 percent of annual premiums to be budgeted for State Fund operating costs, would mean higher premiums for employers, but employers would be willing to pay the higher costs if they realized they would get good management of the State Fund in return.

Rick Hill, the Governor's Office, said Governor Racicot supported HB 13 because of the general changes in it to the workers' compensation. He said HB 13 would give the Governor more direct authority and accountability with the State fund. Though the Governor did not solicit the provisions of having the board of directors and the executive director serve at his pleasure, this was acceptable, as the Governor was ready to take the responsibility of having more direct oversight of the fund.

Rose Hughs, Executive Director of the Montana Health Care Association, said House amendments had addressed her original concerns about HB 13. She said she had served on the Governors' Task Force on Workers' Compensation and on the subcommittee

dealing with administration of the State fund. The subcommittee asked how to deal with the problems related to the administration and management of the State fund, and came up with two diametrically opposed answers. The first recommendation was that the Fund be privatized, and the second recommendation was that the Fund should be put under direct supervision and accountability of the Governor's office because the Fund should run like other government agencies unless privatized. She said people argued this would make the workers' compensation system political, but decisions were presently made publicly for political reasons. She said if there were going to be political decisions made, they should be made by the Governor, who is an elected official accountable to the public.

George Wood, Executive Secretary, Montana Self Insurers' Association (MSIA) said he supported HB 13 with the House amendments.

Jacqueline Lenmark, American Insurance Association (AIA), said AIA supported HB 13 in its present form, and believed HB 13 could be improved in two ways. She offered an amendment (Exhibit #2), in which the State Fund would be regulated by the insurance commissioner as an insurance company. AIA felt that the State Fund would be acting in the market place unregulated if the 1993 workers' compensation legislation package passed. The annual review by the Legislative Auditor would not be enough regulation. The rate making process the amendment proposed was the same one companies AIA represents must go through. These companies file their rates and must justify these to the insurance commissioner. She said the insurance commissioner would not be happy about taking this authority, but his office was the place AIA felt the regulation of the State Fund should reside. Ms. Lenmark said HB 13 could also be improved by putting back in privatization of the State fund. She distributed another amendment (Exhibit #3) that would put this language back in HB 13. She said creating an old Fund and a new Fund was appropriate for Montana when faced with this workers' compensation crisis. She distributed a letter from the president of Liberty Northwest Insurance Corporation to Governor Marc Racicot stating the position of that company on regulation and privatization (Exhibit #4). She said this company was one of the largest writers of workers' compensation insurance, but not a member of AIA. She stated AIA supported HB 13 with or without the amendments.

Reily Johnson, National Federation of Independent Businesses (NFIB), said annual review was a "get back to the people" approach. He suggested the privatization section be reinstated. NFIB supported the surplus concept in HB 13, the 15 percent administration cost, and AIA's amendment. The only place to have review of an insurance company was with the insurance commissioner. He asked for serious consideration of the amendment because the Legislative Auditor was not in a technical position to review an insurance company. Mr. Johnson said the insurance commissioner was not happy about the AIA amendment

because there were no means of controlling the State fund. He said in the amendment there was such a provision that would give the insurance commissioner the amount of control wanted.

Mike Micone, Montana Motor Carriers' Association, said the section on appointment of the board of directors and the executive director would put politics back into the workers' compensation system. He said he had not found any problems with doing his job properly when he served at the pleasure of a political person or board, and did not find this section to be a problem.

Don Allen, Coalition for Workers' Compensation System Improvement, said the coalition represented over 50,000 people and about 225 workers, employers, organizations, and associations. He said beginning in September of 1992, the coalition was involved in suggesting to the Legislature, ideas included in the workers' compensation package. He said if the major management concerns of the State Fund were not resolved, the efforts of the Legislature would be wasted. The coalition's concern was that HB 13 was the only bill left that expressed some of the frustrations and concerns of how to handle the State fund. The coalition did not support the Governor appointing the executive director. He said Governor Racicot was going to have an opportunity to impact the future direction of the State Fund by appointing three people to the board soon. The coalition's hope was that Governor Racicot would pick three people in the who would make sure the State Fund was run like a business, and make changes to ensure the Fund would take advantage of bills being passed. He said the State Fund had not answered how it was correcting its inadequacies of the past, and without major changes in the management of the State fund, HB 13, HB 504, and the other pieces of legislation that were being considered by the Legislature would not be fully effective.

Informational Testimony:

Tom Schneider, Montana Public Employees' Association (MPEA), said MPEA did not support the AIA amendments, but was otherwise neutral about HB 13.

Bill Lombardi, Insurance Commissioner's Office, said Commissioner O'Keefe was opposed to the AIA amendments, but otherwise supported HB 13. Before the House Select Committee on Workers' Compensation the commissioner asked to be removed from HB 13, and the legislative auditor had been placed in HB 13 in his position. Mr. Lombardi said Commissioner O'Keefe wanted to be part of the solution to workers' compensation problems. In 1989 the Legislature gave the insurance commissioner authority over the Fund starting in January of 1990, but took the authority away in May of 1991. HB 13 required the Legislative Auditor to report rates to the Governor, the Legislature, and the State Fund Board. Mr. Lombardi said HB 13 would also require the State Fund to retain a surplus of 25 percent of the annual premium. He said

the commissioner would support the AIA amendment if he could have liquidation authority so the State Fund would be pliable.

Don Judge, Executive Secretary, Montana State AFL-CIO, said the AFL-CIO did not have a position on HB 13, but it was opposed to the AIA amendments.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Hertel asked Representative Benedict to explain why the House removed privatization from HB 13. Representative Benedict said the House tied on a vote about the privatization proposal. During the last interim, the State Fund was examined, and the 4 Republican and 4 Democrat member study committee unanimously decided on the privatization proposal. The House Select Committee decided to strike the language that was an amendment of language from HB 456 into HB 13.

Senator Towe asked Representative Benedict if privatization should be a part of HB 13. Representative Benedict explained this proposal of privatization did not require sale of the State Fund to a private company. He said the state would have to pay money to get a company to take over the State fund, rather than being able to sell it. He said HB 456, which was amended into HB 13, provided the Governor would have the authority to privatize parts of the old and new funds.

Senator Harp asked Pat Sweeney if the premiums were close to $170 million. Mr. Sweeney answered about $165 million was correct. Senator Harp said if 15 percent of the annual premiums was used as the State fund's budget, there would be about $11 to $12 million additional dollars that could be spent for administrative needs. Senator Harp asked Mr. Sweeney to outline how the State Fund would use an additional $5 to $10 million to improve administration. Mr. Sweeney said 36 FTE might be spent in areas of claims, safety, audit, rehabilitation, rehabilitation nurses, and support staff. He said if those 36 people were to be approved under the State fund's budget in HB 2, the budget would be only 9.25 percent of the annual premiums. Mr. Sweeney continued, saying that this would still be fairly conservative, and showed that the board would not extend immediate authority to spend 15 percent of the premiums. With the 36 additional FTE's requested, the fund's budget would still be under 10 percent of the annual premiums.

Senator Harp said the safety and fraud bills that had been sent to the Governor had funding and assessments for 10 FTE's. He asked if the State Fund was looking at an additional 26 FTE's beyond that. Pat Sweeney answered he had included these new FTE's in the 36 FTE's he had made reference to.

Senator Harp asked what surplus the new Fund had currently. Pat Sweeney answered the Fund was in a deficit position of about $37.5 million. The deficit was declining in the new fund, and if HB 13 were to pass, the actuary would take into consideration the 25 percent surplus by 2003 requirement when setting rates.

Senator Towe said 15 percent of $165 million was $24 million and asked Pat Sweeney how much of that would be used. Mr. Sweeney said that would be a board decision. This was much more money then the State Fund had been given before, but the amount was in the lower middle half in comparison to the budgets of other state funds. He said the "Oregon miracle" did not happen through just legislative changes regarding benefits, but also through spending money in order to save money.

Senator Towe asked how much of the $24 million Mr. Sweeney anticipated the State Fund would spend. Mr. Sweeney said he doubted if the board of directors would spend above 10 percent to 12 percent of the total premiums.

Senator Towe asked Mr. Sweeney if the 25 percent surplus goal was realistic. Mr. Sweeney said he thought it was.

Senator Towe asked if meeting this goal would lead to substantial increases in workers' compensation premiums. Mr. Sweeney answered he did not foresee any substantial increase besides the general rate increases, but better management and better staffing would help save money.

Senator Towe asked for comment on the intent statement about mental mental and mental physical claims on page 24. Representative Benedict said tightening the definition of mental mental and mental physical stress was discussed in the joint interim committee. He said Bart Campbell researched what other states were doing, and tried to understand the workers' compensation court decisions in these cases. The committee tried to write language that would give the court more direction on what the Legislature intended for stress claims.

Senator Towe asked Representative Benedict what "mental mental" meant. Representative Benedict answered this was a mental stress claim. Senator Towe asked what "mental physical" meant. Representative Benedict directed the question to Jim Murphy, who said mental physical was a measurable physical injury that was initiated by a mental stress (i.e. ulcers).

Senator Towe asked Representative Benedict if the reference to mental stress claims would be more appropriate in the benefits section of the code, rather than structured into a policy statement. Representative Benedict said the researcher felt that because the direction the courts were getting from the Legislature was not clear there should be a declaration of public policy.

Senator Towe asked if the same thing would apply to repetitive injury claims as well. Representative Benedict answered it would.

Senator Towe said the language at the beginning of section 1 stated it was the objective of the workers' compensation system to provide without regard to fault wage, supplement, and medical benefits. He said the language said that wage loss benefits were not intended to make an injured worker whole, but rather to assist a worker at a reasonable cost to the employer. Senator Harp clarified this was existing law, and not a new section.

Senator Harp asked Pat Sweeney if the provision on page 28, line 18 was a minimum charge imposed on small employers by HB 13. Mr. Sweeney answered this was existing law that was taken out in order to let the board of directors establish a minimum premium, but was later reinstated so any minimum premium would be based upon administrative costs. He said the minimum premium of the State Fund was currently about $123.00.

Senator Hertel asked Representative Benedict to comment on the AIA amendment placing the State Fund under the authority of the insurance commissioner. Representative Benedict said the drafters of HB 13 had discussed the insurance commissioner as an accountable authoritative officer for overseeing the State fund. After deciding that if the insurance commissioner had the authority, he might liquidate the fund, the interim committee decided the insurance commissioner should be given supervisory powers only. The insurance commissioner was not happy about having just this power, but told the interim committee if the appropriation was available, he would do a study and report to the Legislature and the Governor on his findings. Representative Benedict said the Legislative Auditor was required to do the same type of study on the State Fund every year. The interim committee thought it would be better to leave the State Fund under the auditor, and to give the auditor expanded authority to conduct an actuarial review. He said he would resist AIA's amendments for these reasons.

Senator Towe asked if the intent of HB 13 was to have the board managing the whole budgeting process of the State Fund and to not have that budget reviewed by the Legislature or placed into the state budget. Representative Benedict answered that the State Fund would be outside the budgetary process but the State Fund was statutorily appropriated, so it would still have to come before the Legislature and announce its intentions for the money.

Pat Sweeney said the board would establish a budget, and the State Fund would provide the Legislature and the Governor with copies of its budget. He said if the Legislature wanted to comment on that budget, it would be free to do so.

Senator Towe asked if taking the State Fund out of the Legislative Finance Act would take it out of the state budget.

Pat Sweeney answered this was correct.

Senator Towe asked Jacqueline Lenmark what she felt about Representative Benedict's remarks on having the State Fund under the authority of the insurance commissioner. Ms. Lenmark said the amendments proposed by AIA were slightly different then the original language in the first bill. As HB 13 was originally drafted, the insurance commissioner had no real authority over the State fund. The AIA amendments purpose to put the State Fund under chapters 1, 2, and 16 of the insurance code, requiring the insurance commissioner to examine the State Fund on the same basis as other insurance companies. It would also give the insurance commissioner authority to supervise the rehabilitation of an insolvent fund. Ms. Lenmark said the amendment restricted the commissioner's ability to liquidate the State fund, because the State Fund is Montana's insurer of last resort. To liquidate the State Fund would leave Montana policy holders without an insurance company. She said the AIA amendments require that the State Fund justify rates it charges in every class code; and require that the Fund participate in a rating organization and follow the rules of that rating organization in setting its rates. The amendments would also allow the State Fund to deviate from filed advisory rates in the same way the AIA companies are able to do. When these companies deviate too far the insurance commissioner can tell the company to change the rate to one more appropriate. If the company does not comply with the insurance commissioner's ruling, then the commissioner would have the ability to fine the company. The amendment would allow that penalty to be applied to the State fund. Ms. Lenmark stated it was the position of AIA that insurance companies should be regulated consistently by the insurance commissioner. She asked how to encourage private companies back into the Montana marketplace. She said private companies could not compete in the Montana marketplace because of rate inadequacy and because they would have to compete on a different basis then the State fund.

Representative Benedict said he had debated the pros and cons of assigning the insurance commissioner to be the authority over the State fund. He asked how many more FTE's the insurance commissioner would need in order to regulate a company the size of the State Fund with 27,000 policy holders. He said the insurance commissioner agreed with him on this issue.

Senator Towe said leaving the State Fund out from under the authority of the insurance commissioner except for in the rating chapters would make sense because the insurance commissioner does similar rate reviews for other companies.

Representative Benedict said HB 13 made reference to the National Council on Compensation Insurance (NCCI). The State fund, when setting rates, used NCCI recommended rates as guidelines.

Senator Towe said the theory was that if the Governor was to be held responsible he should be accountable for the authority he

has. Usually in a scenario like this, a board of directors is not put in between the Governor and the executive director. He said the provisions in HB 13 did not address this issue, and might not be conducive to holding the Governor responsible because the board could be blamed for not getting the job done.

Representative Benedict answered the board had experience in workers' compensation insurance, and putting the board over the executive director would create a policy committee for the Governor.

Senator Towe asked Representative Benedict how he would respond to the concern that the system had not improved when the Governor had been in control before. Representative Benedict explained the reason to put the Governor back in control was that removing the Governor as the overseer of workers' compensation may have been a mistake, as the new Fund was already in debt about $50 million.

Senator Towe said if the Governor was responsible and accountable there should not be not be a board of directors shielding him from his responsibility for the executive director. He asked Rick Hill to comment on that. Mr. Hill responded that there were a number of functions the board of directors served independent from direct oversight of the executive director. The board provides other services to the management of the State Fund in rate setting policy procedures and the budget. Mr. Hill said HB 13 would allow the Governor to intercede directly in the hiring and firing of the executive director rather than having to wait to appoint board members to accomplish that.

Senator Bartlett said if she was the governor and after a year she found the people she had appointed were not aiming toward a goal in the same manner she was, if she was to fire enough of those people so as to accomplish the goal, she would look foolish. Representative Benedict said the State Fund was in such bad shape, that a governor would probably feel compelled rather than embarrassed to get rid of those people who were not aiming in the same direction as was the governor.

Senator Bartlett asked Representative Benedict if he felt the situation with the new Fund was a result of the management structure rather than the management. Representative Benedict said over the last three years there were indicators that the new Fund needed to react, but it had not reacted quickly enough. He said this was in part due to inside management, but also due to management structure and outside influences.

Senator Bartlett asked Representative Benedict if the problems in management of the State Fund was a consequence of not having the board and the director serve at the pleasure of the governor. Representative Benedict said when he looked at the internal structure of the Fund and decisions were being made, there was a combination of things happening making it imperative to give the

governor authority over the board and executive director. This would give the governor ability to tell the board what needed to be done, and replace the members if the tasks were not accomplished.

Closing by Sponsor:

Representative Benedict said HB 13 was a key piece of legislation designed to help fix the ailing workers' compensation system. He said a $40 million unfunded liability has developed within the new fund. He said the board and management of the State Fund needed some change or there would be further deterioration of the new fund.

HEARING ON HB 504

Opening Statement by Sponsor:

Representative Benedict, House District 64, said HB 504 was a bad bill for employers and employees, but the only realistic way to pay off the unfunded liability in the old fund. He said the bipartisan interim committee on workers' compensation had spent a year looking at alternatives to find a solution to the debt in the old fund. The ideas in HB 504 were unanimously decided on as the best alternative. HB 504 places a 0.5 percent payroll tax on employers and employees. In 1998 the tax rates would begin to go down, and would fall to 0.2 percent by the year 2003. Representative Benedict said these projections were modeled from a worst-case scenario, and that the trigger mechanisms could bring the payroll tax rate down earlier. He handed out a spreadsheet showing how the trigger mechanisms worked (Exhibit #5).

Proponents' Testimony:

Rick Hill, the Governor's Office, said no one wanted to pay the $400 million deficit. Governor Racicot believed HB 504 to be a long-term solution to the old Fund liability issue, and was reasonable because it spread the debt burden to both employers and employees.

Opponents' Testimony:

Harley Thompson, Montana Building Industry Association (MBIA), spoke from written testimony (Exhibit #6).

Jim Tutwiler, Montana Chamber of Commerce, said the old Fund debt had grown, despite attempts by the Legislature to find a funding mechanism. He said in 1987 when the first payroll tax was imposed on employers, there was hope that the tax was a temporary measure. In 1991 the indebtedness had grown, the payroll tax was still in place, and bonding issues to borrow more money at a faster rate were being considered. In the 1991 special session a bonding issue was approved and implemented. Mr. Tutwiler said

ROLL CALL

SENATE SELECT COMMITTEE ON Workers' Compensation DATE 4/01/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Towe	X		
Senator Forrester	X		
Senator Bartlett	X		
Senator Wilson	X		
Senator Burnett		X	
Senator Lynch	X		
Senator Aklestad	X		
Senator Fritz	X		
Senator Hockett	X		
Senator Hertel	X		
Senator Harp	X		
Senator Keating	X		
		/	

Attach to each day's minutes

WORKERS' COMPENSATION MARKET 1991 - SYMMETRIX (3/93)

SENATE SELECT COMMITTEE
WORKERS' COMPENSATION
EXHIBIT # 1a
DATE 1/01/93
BILL # HB 13

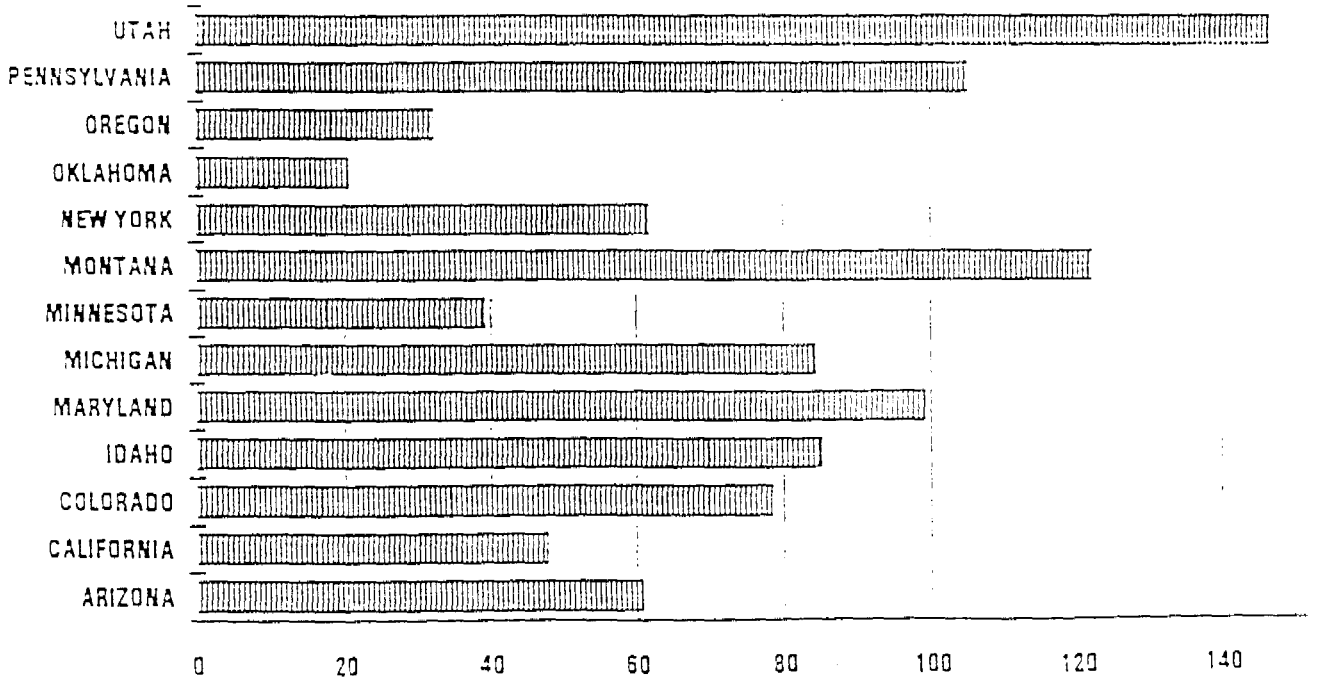
◯ = $300 Million

STATE	Total Direct Premiums	Pools Reinsurance Premiums Written	Estimated State Fund	Workers' Comp Mechanism	Aetna	Casualty Ins. Co.	CIGNA	Commercial Union	Continental (Fidelity)	Fireman's Fund	Hanover Ins. Co.	Hartford Acc. & Ind. Co.	Liberty Mutual Ins. Co.	Mountain States Mutual	Travelers Ins. Co.	USF&G	Wausau	All Others	5 Yr. Avg. Net Oper. Results	1991 Net Oper. Results	3 Year Res. Mkt. / State Fund CAGR	Notes
Oregon SAIF Corporation	◯		◯	G															+	+	8.6%	- 1 of 5 servicing carriers for state assigned risk pool.
Oklahoma State Insurance Fund	◯		◯	F															-	+	12.6%	- State Fund is the assured mkt. Installing image processing system.
Maryland Injured Workers' Insurance Fund	◯		◯	H															-	+	0.7%	- Must insure all employers except under Longshoremen's and Harbor Workers Act.
Utah Workers' Compensation Fund	◯		◯	F															+	NA	12.7%	- State Fund is the assured market in Utah. Computer system upgrades underway.
Montana State Compensation Mutual Ins. Fund	◯		◯	F															-	-	5.0%	- State Fund is the assured market in Montana. Lowest expense ratio in the U.S.
Idaho State Insurance Fund	◯		◯	G															+	+	14.8%	- Not a servicing carrier for state assigned risk pool. Write 80% of market. Computerized
Wyoming Workers' Comp. Division	◯		◯	E															-	-	36.2%	- Monopolistic State Fund is assured mkt. Implementing an imaging system.
Minnesota State Fund Mutual Insurance Company	◯		◯	H															+	+	7.5%	- Completely computerized. Recent managed care initiative.
North Dakota Workers' Comp. Bureau	◯		◯	E															-	NA	17.7%	- Monopolistic State Fund is the assured market.
South Carolina State Workers' Compensation Fund	◯		◯	G															+	-	11.0%	- Insures only state, city, and county agencies. Not involved with state pool.

Symmetrix

WORKLOAD INDICATORS 1991

STATE	NUMBER OF POLICIES	NUMBER OF EMPLOYEES	POLICIES PER EMPLOYEE
ARIZONA	42733	701	60.96
CALIFORNIA	259465	5419	47.88
COLORADO	40560	517	78.45
IDAHO	14491	170	85.24
MARYLAND	26508	267	99.28
MICHIGAN	41183	488	84.39
MINNESOTA	6000	153	39.22
MONTANA	26407	216	122.25
NEW YORK	190163	3073	61.88
OKLAHOMA	9215	446	20.66
OREGON	35695	1104	32.33
PENNSYLVANIA	28397	270	105.17
UTAH	24200	165	146.67



SENATE SELECT COMMITTEE
WORKERS' COMPENSATION

EXHIBIT # 7 b

DATE 4/01/93

ANALYSIS EARNED PREMIUM VS EXPENSES			
COMPETITIVE FUNDS 1987-1991			
STATE	EARNED PREMIUM	EXPENSES	PERCENTAGE
ARIZONA	$1,050,124	$206,030	19.62%
CALIFORNIA	$8,731,613	$1,489,516	17.06%
COLORADO	$1,194,586	$156,862	13.13%
IDAHO	$264,586	$34,688	13.11%
MARYLAND	$622,252	$73,541	11.82%
MICHIGAN	$806,295	$252,230	31.28%
MINNESOTA	$231,336	$87,042	37.63%
MONTANA	$440,717	$46,181	10.48%
NEW YORK	$4,815,027	$966,699	20.08%
OKLAHOMA	$506,981	$71,571	14.12%
OREGON	$1,084,748	$324,164	29.88%
PENNSLYVANIA	$881,483	$150,570	17.08%
UTAH	$386,437	$62,551	16.19%
Source AASCIF 1992 FACT BOOK			
(In Thousands of Dollars)			

SENATE SELECT COMMITTEE
WORKERS' COMPENSATION

EXHIBIT # 1C

DATE 4/01/93

BILL # HB 13

SUMMARY OF SURVEY REGARDING
BUDGET QUESTIONS

State Fund Responses	Who Has The Authority to Set The Budget For Your State Fund	To What Extent Does Executive Branch Get Involved in Setting the Budget	To What Extent Does Legislative Branch Get Involved in Setting the Budget
Arizona	Set by the Fund Approved by the Board	None	Joint legislative Budget Committee, which meets all year/reviews and approves
Louisiana	Board of Directors	None	None
Maryland	Board of Directors	None	None - Presented for informational purposes only
Minnesota	Mgmt. sets/ Board approves	None	None
New Mexico	Board of Directors	No approval - Sends Report to Governor	None
Oregon	Mgmt. sets/ Board approves	None	None - Copy goes to legislature for information purposes only
Texas	Board of Directors	None	None

cs/4074

SENATE SELECT COMMITTEE
WORKERS' COMPENSATION
EXHIBIT # 1d
DATE 4/01/93
BILL # HB 13

Amendments to House Bill No. 13
Third Reading Copy

Prepared by Jacqueline Lenmark
American Insurance Association
April 1, 1993

1. Title, line 13
Following: "~~FUND;~~"
Insert: "PLACING THE STATE FUND UNDER THE AUTHORITY OF THE INSURANCE COMMISSIONER;"

2. Title, line 21
Following: "RATE MAKING;"
Strike: "AUTHORIZING" THROUGH "YEAR" ON LINE 23."

3. Page 22
Following: line 20
Insert: "Section 1. Section 33-1-401, MCA, is amended to read:

"33-1-401. Examination of insurers and state compensation insurance fund.

(1) The commissioner shall examine the affairs, transactions, accounts, records, and assets of each authorized insurer and the state compensation insurance fund as often as ~~he deems~~ the commissioner considers advisable. ~~He~~ The commissioner shall so examine each domestic insurer not less frequently than every three years. The commissioner shall examine the state fund on a yearly basis beginning no sooner than October 1 following the end of the fiscal year. Examination of an alien insurer may be limited to its insurance transactions . . . .

(4) If, after examining the state compensation insurance fund pursuant to subsection (1), the commissioner determines that the state fund, if it were a private insurer, would be subject to the provisions of Title 33, chapter 2, part 13, the commissioner shall report those findings to the governor and the legislature."

Section 2. Section 33-16-1002 is amended to read:

"33-16-1002. Applicability of part. This part, together and in conjunction with parts 1 through 4 of this chapter, applies to the making of premium rates for workers' compensation insurance issued under compensation ~~Plan~~ Plans No. 2 and No. 3 of the workers' compensation act, Title 39, Chapter 71, ~~part~~ parts 22 and 23."

SENATE SELECT COMMITTEE
WORKERS' COMPENSATION

EXHIBIT # 2
DATE 4/01/93
BILL # HB 13

Section 3. Section 33-16-1005, MCA, is amended to read:

"33-16-1005. Membership in rating organization required - exception - filings with Commissioner.

(1) Every insurer, including the state compensation ~~mutual~~ insurance fund . . .

(2) The rating organization shall file with the insurance commissioner every manual of classifications and rules and every rating plan and advisory manual rates, including every modification of the foregoing. Every such filing shall state the effective date thereof. ~~Any insurer writing pursuant to Compensation Plan No. 2~~ Every insurer, including the state fund, shall adhere to the manual rules and classifications and rating plans . . ..

4. Page 29, line 5
Following: "self-supporting~~.~~."
Strike: remainder of line 5 and lines 6 through 13 in their entirety.

5. Page 29, line 5
Following: "self-supporting~~.~~."
Insert: "Premium rates and classifications must be adopted in compliance with Title 33, Chapter 16.

6. Page 32, line 24
Following: "rates."
Insert: "rates must be set in compliance with Title 33, Chapter 16."

7. Page 33
Following: Line 5
Insert: (3) The state fund may not make any adjustment to the full manual premium developed for any risk without adequate justification for that adjustment. An adjustment will be presumed to be adequately justified if:

(a) it is applied in a manner consistent with the rules filed under 33-16-1005; and

(b) the state fund files contain adequate documentation of the facts supporting the adjustment.

A misclassification of a risk shall be considered an adjustment without adequate justification.

(4) The state fund shall maintain reasonable records of the information collected or used by it in developing the premium charged for any risk so that the records will be available to the insurance commissioner to verify compliance with this section.

Exhibit #2

8. Page 33
Following: Line 5
Strike: Section 10 in its entirety.
Insert: "NEW SECTION. SECTION 10. Authority of Insurance Commissioner with respect to state fund.

(1) The insurance commissioner shall review rates established by the board to determine if the rates comply with Title 33, Chapter 16 and are not excessive, inadequate, or unfairly discriminatory. The insurance commissioner has the same authority over the state fund's rate-setting procedures as the insurance commissioner has over the rate-setting procedures of private insurers.

(2) The state fund is subject to the provisions of Title 33, chapter 1; Title 33, chapter 2, except for 33-2-1342 through 1388; and Title 33, chapter 16.

(3) The commissioner of insurance may not exercise his authority under Title 33, chapter 2, part 13 based on the insolvency that is recognized to exist on the effective date of this section.

(4) The state fund is not a member insurer for the purposes of the insurance guarantee association established pursuant to Title 33, chapter 10, part 1.

9. Page 40, line 11
Following: "~~25~~"
Insert: "1-3,"

EXHIBIT 2
DATE 4-1-93
HB 13

Exhibit #2

Amendments to House Bill No. 13
Third Reading Copy

Prepared by Jacqueline Lenmark
American Insurance Association
March 31, 1993

1. Title, line 13.
Following: "~~FUND~~."
Insert: "PERMITTING THE GOVERNOR TO CONTRACT FOR PRIVATE SECTOR INVOLVEMENT TO LIQUIDATE THE UNFUNDED LIABILITY AND TO MANAGE CLAIMS OF THE OLD FUND AND TO MANAGE CLAIMS OF THE NEW FUND OF THE MONTANA STATE MUTUAL INSURANCE FUND;

2. Title, line 15.
Following: ~~"33-1-102"~~
Insert: "33-1-102, 39-71-721, 39-71-2315, 39-71-2351"

3. Page 4, following line 4.
Insert: "WHEREAS, the Legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the State Fund as the insurer of last resort, and in making this insurance available, the State Fund has incurred an unfunded liability; and

WHEREAS, the unfunded liability has grown each year despite the fact that there have been numerous attempts to solve the problem by legislation and other methods, but those attempts have not resolved the problem; and

WHEREAS, the Legislature separated the payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990 (the "old fund"), from injuries occurring on or after July 1, 1990 (the "new fund"), and provided revenue options and spending limits; and

WHEREAS, this separation has not eliminated the unfunded liability, which is estimated to be in excess of $400 million; and

WHEREAS, the Joint Select Committee on Workers' Compensation of the 52nd Legislature solicited from private insurance and reinsurance markets proposed solutions to liquidate the old fund unfunded liability; and

WHEREAS, insurance and reinsurance markets responded to the Committee's request for assistance to liquidate the old fund unfunded liability; and

WHEREAS, the Committee reviewed and concurred in a preliminary proposal of one of the insurance and reinsurance markets that the Committee believed provides significant benefits to Montana including but not limited to:

(1) risk transfer;
(2) profit sharing between the reinsurer and the state;
(3) investment of premiums in Montana financial institutions and investments;
(4) funding and finance options;

SENATE SELECT COMMITTEE
WORKERS' COMPENSATION
EXHIBIT # 3
DATE 4/01/93
BILL # HB 13

(5) security to Montana in the event of contract breach or insolvency of the reinsurer;

(6) industry best claims management and administration; and

(7) development of clean industry private sector jobs; and

WHEREAS, there may be merit in the proposal, and it may be in the best interests of Montana to proceed with the negotiations with the reinsurer.

THEREFORE, the Legislature finds it appropriate to empower the Governor to fully investigate and negotiate a reinsurance solution."

4. Page 22.
Following: line 20
Insert: "NEW SECTION. Section 1. **Liquidation of old fund liability.** (1) (a) The governor is authorized to negotiate the liquidation of the unfunded liability of the old fund of the state fund, and defined in 39-71-2312, if an agreement can be reached that is in the best interests of Montana. The scope of any negotiated agreement may include but may not exceed all of the rights, privileges, liabilities, and duties of the state fund with respect to all claims arising prior to July 1, 1990.

(b) The governor may not enter into an agreement that pays more than $400 million to the other party to the agreement.

(c) Any contract finalized by the governor must contain a provision that the contract is void unless necessary financing for the agreement has been provided by the 1993 legislature.

(d) To be effective, a contract must be finalized by the governor within 120 days of [the effective date of this section].

(e) Any contract finalized by the governor may require reinsurance premium payments by the state to be used to liquidate the old fund liability.

(2) Any entity entering into an agreement with Montana under [section 2] or this section shall submit an annual report to the legislative audit committee. The first report is due 12 months after the agreement is finalized and thereafter may be submitted on a fiscal year basis.

(3) Any negotiations or agreements entered into pursuant to [section 2] and this section are not subject to the competitive bidding requirements of Title 18, chapter 4.

(4) A negotiation or an agreement entered into pursuant to [section 2] is not subject to the privatization plan requirements of Title 2, chapter 8, part 3.

NEW SECTION. Section 2. **Claims settlement of new fund claims -- new fund management.** As part of the negotiated liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, the governor may negotiate for claims settlement of the claims of persons whose benefits have not been determined under a claim based on an injury occurring on or after July 1, 1990, and for services with respect to the new fund of the state fund, including but not limited to claims management services, third-party administration, and medical cost containment

Exhibit 3

agreements if the contracted services are in the best interests of the state. An agreement under this section is valid only if it is part of an agreement that meets the requirements of [section 1].

NEW SECTION. Section 3. **Audit of contracted services and old fund liquidation.** Any proposal involving the private section in liquidation of the unfunded liability of the old fund of the state fund, as defined in 39-71-2312, or in claims settlement and management of the new fund of the state fund must provide for audit and reporting mechanisms in compliance with 39-71-2361.

NEW SECTION. Section 4. **Mutually agreeable lump-sum settlements.** Beginning July 1, 1993, a workers' compensation claimant and the state fund or a reinsurer may, regardless of the lump-sum law in effect on the date of the injury, mutually agree to a lump-sum settlement of a claim. If a mutual agreement is not reached, the lump-sum law in effect on the date of the injury applies.

Section 5. Section 39-71-721, MCA. is amended to read:

"39-71-721. **Compensation for injury causing death -- limitation.** Except as provided in [section 4]:

(1) (a) ~~If~~ if an injured employee dies and the injury was . . .

(6) ~~In~~ in all cases, benefits must be paid to beneficiaries, as defined in 39-71-116~~.~~; and

(7) ~~Benefits~~ benefits paid under this section may not be adjusted for cost of living as provided in 39-71-702.

~~(8) Notwithstanding subsections (2) and (3), beginning July 1, 1987, through June 30, 1991, the maximum weekly compensation benefits for injury causing death may not exceed the state's average weekly wage of $299 established July 1, 1986. Beginning July 1, 1987, through June 30, 1991, the minimum weekly compensation for injury causing death shall be $149.50, which is 50% of the state's average weekly wage established July 1, 1986, but in no event may it exceed the decedent's actual wages at the time of death.~~"

Section 6. Section 39-71-2315, MCA, is amended to read:

39-71-2315. **Management of state fund -- powers and duties of ~~the~~ board.** Except with respect to any agreement established pursuant to [sections 1 and 2]:

(2) ~~The~~ the management and control of the state fund is vested solely in the board~~.~~; and

(2) ~~The~~ the board is vested with full power, authority, and . . ."

Section 7. Section 39-71-2351, MCA, is amended to read:

"39-71-2351. **Purpose of separation of state fund liability as of July 1, 1990, and of separate funding of claims before and on or after that date.** (1) An unfunded liability exists in the state fund. It has existed since at least the mid-1980s and has . . .

(b) extend the payroll tax imposed by 39-71-2503 and dedicate the tax money first to the repayment of bonds issued under 39-71-2354 and 39-71-2355 and then to the repayment of loans given under 39-71-2354 and 39-71-2355, to payment of premiums for a negotiated

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Exhibit

liquidation of the unfunded liability of the old fund of the state fund as provided in [section 1], and the direct payment of the costs of administering and paying claims for injuries from accidents that occurred before July 1, 1990.

~~(3) The legislature further determines that in order to prevent the creation of a new unfunded liability with respect to claims for injuries for accidents that occur on or after July 1, 1990, certain duties of the state fund should be clarified and legislation oversight of the state fund should be increased.~~"

Section 8. Section 39-71-2354, MCA, is amended to read:

"**39-71-2354. Use of payroll tax proceeds -- loans -- bonds.** (1) Taxes collected under 39-71-2503 may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990, including the cost of repaying bonds issued and loan proceeds given under 39-71-2355 and this section and any premium payments that may be required by an agreement made pursuant to [section 1]. If the state fund . . . . Except as provided in subsection (2), the board of investments shall, at all times and in amounts it considers necessary or advisable, finance the amount certified by the budget director by giving the state fund the proceeds of a loan or a bond issue to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. ~~Loans must be from reserves accumulated from premiums paid to the state fund based upon wages payable on or after July 1, 1990.~~ In the event that loans are necessary for an agreement established in accordance with [sections 1 and 2], the governor is authorized to pursue internal and external financing that is in the best interest of the state. The board of investments shall choose the method of financing that is more cost-effective for the state fund. A loan must bear interest at the rate the money would earn in the pooled investment fund required by 17-6-203. The board of investments may also, upon request of the board of directors of the state fund, give the state fund the proceeds of a bond issue, to be used to pay off loans made under 39-71-2355 and this section. Bonds for the state fund must be workers' compensation bonds issued under 39-71-2355.

(2) ~~The~~ Except for any agreement established pursuant to [sections 1 and 2], the total amount of loan proceeds given to the state fund plus workers' compensation bonds issued under 39-71-2355, except bonds issued to repay loans as provided for in subsection (1), may not exceed $220 million. All loan and bond proceeds given to the state fund must be repaid to the board of investments before July 1, 2020."

Section 9. Section 39-71-2503, MCA, is amended to read:

"**39-71-2503. Workers' compensation payroll tax.** (1) (a) There is imposed on each employer a workers' compensation payroll tax in an amount equal to 0.28% of the employer's payroll in the preceding calendar quarter for all employments covered under 39-71-401, except that if an employer is subject to 15-30-204(2), the tax is an amount equal to 0.28% of the employer's payroll in the preceding week. This payroll tax must be used to reduce the unfunded

Exhibit #

liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990, or for payment of those claims under [section 1]. If one or more loans or bonds are outstanding, the tax must be continued at the 0.28% rate and the legislature may not modify the tax rate, ... "

Section 10. Section 33-1-102, MCA, is amended to read:

"33-1-102. **Compliance required -- exceptions -- health service corporations -- health maintenance organizations -- governmental insurance programs.** (1) A person may not transact a business of insurance in Montana or relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code. . . .

6. Page 39, following line 8.
Insert: NEW SECTION. Section 18. **Coordination with occupational disease act of Montana.** For purposes of [sections 1 through 4] and the administration of Title 39, chapter 72, a reference in [sections 1 through 4] to an injury resulting from an accident or to a claim for an injury resulting from an accident includes a disablement, as defined in 39-72-102(4)."

Renumber: subsequent sections

7. Page 13, line 13.
Following: "instruction."
Insert: "(1) [Sections 1 through 3] are intended to be codified as an integral part of Title 39, chapter 71, and the provisions of Title 39, chapter 71, apply to [sections 1 through 3].

(2) [Section 4] is intended to be codified as an integral part of Title 39, chapter 71, part 23, and provisions of Title 39, chapter 71, part 23, apply to [section 4]. (3)"

8. Page 40, line 1.
Following: "APPLICABILITY"
Insert: "Sections 1 through 3, 10, and 18 are effective on passage and approval.

(2) [Sections 4 through 9] are effective on finalization of an agreement entered into by the governor and the reinsurer, as provided in [section 1].

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HB 13

Lloyd Center Tower
825 NE Multnomah Street
Portland, Oregon 97232-2141
(503) 239-5800

Liberty Northwest Insurance Corporation

March 31, 1993

Governor Marc Racicot
Capitol Station
Helena, MT 59620

Dear Governor Racicot:

I am writing to urge your support of efforts to reform Montana's workers' compensation system. These efforts involve two areas that are interdependent and vitally necessary to provide cost controls and a stable, competitive market for Montana employers.

The reforms to improve the efficiency of the benefit delivery system will significantly reduce unnecessary expenses paid by employers while helping reduce worker disability. But for these reforms to work it is imperative that Montana create a healthy, competitive market for workers' compensation insurance by addressing needed reforms of the state fund. This will assure that Montana employers can readily obtain insurance at competitive prices.

As Montana and other states have discovered, the negative influence of under-regulated state workers' compensation insurance funds is profound. State insurance codes stringently regulate the marketing and financial practices of private workers' compensation insurers. This provides checks and balances of state insurance laws which protect policyholders, workers and taxpayers of the state.

The new breed of state fund which has emerged from Montana, Michigan, Oregon and other states, however, is exempt from all or significant portions of these insurance regulations. Their structures as "independent public corporations" and state run mutual insurers also exempt them from income taxes and other requirements which apply to all other insurers. The result of all this is mismanagement which includes predatory marketing and questionable financial practices influenced heavily by politics. As Montana has discovered, the legacy of these practices is that sources of insurance dry up as private insurers are driven out of the market and the financial tax burden is ultimately slung around the necks of businesses and taxpaying citizens.

SENATE SELECT COMMITTEE
WORKERS' COMPENSATION
EXHIBIT # 4
DATE 4/01/93
BILL # HB13

In dealing with the major problems created by their state fund, it is my understanding Michigan is actively pursing efforts to sell it. Oregon is only now recovering from the state fund's implementation of a program to cancel and non-renew all small business accounts.

So the eyes of the nation are on Montana to see whether leaders will take necessary steps with the state fund to ensure establishment of a healthy, competitive insurance system for employers. The workable state fund options are basically two: bring the fund under all the insurance code requirements which apply to all other workers' compensation insurers or sell the fund. Either of these options will bring insurers back into Montana, ensure fair treatment of employers and workers, and a healthy, workers' compensation insurance market that provides for readily available insurance at a competitive price.

Sincerely,

Charles B. Gill, Jr.
President

DATE THURSDAY, APRIL 1, 1993

SENATE COMMITTEE ON SELECT COMMITTEE ON WORKERS' COMPENSATION

BILLS BEING HEARD TODAY: HB 13, HB 504 - (BENEDICT)

PLEASE PRINT

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
[illegible]	MPEA	HB504		X
Mike Sullivan	Wkr Comp Coalition	HB13/HB 504		
Hailea Thompson	MBIA	504		X
Russ Fagan	Bldg Chambers	504	/	X
George Wood	MT Self Ins Assn	HB 13 504		✓
Dee Hughes	Mt Health Care	HB13	✓	
Dan Judge	MT STATE AFL-CIO	HB504 HB 13	NO Amend	X
Mike Micone	MMCA	HB13 HB504	X	X
Tom Tutwiler	Mt Chamber	HB504 HB13	—	—
Greg Johnson	NFIB	HB 504 — HB 13 —	— X	X
Stacy Riley	MFT/MFSE	HB504		X
Jack Zull	Gov Office	HB13 HB504	✓	
Ed Allen	CSKCS	HB 13 HB 504	✓	✓
Bill Lombardi	State Auditor's Office	HB 13	oppose amendment	
Maureen Denmark	Am. Ins. Assoc.	HB 13 HB 504		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 4/1/93

SENATE COMMITTEE ON Select Work Comp

BILLS BEING HEARD TODAY: HB 13, HB 504 (Benedict

Name	Representing	Bill No.	Check One Support	Oppose
Justin Knu	Bell Co	1	✓	
Darryl Hegemeier	"			
Lisa Ann Kuchinski	"			

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Senator Towe said it might be appropriate to act on HB 622 first. He stated if HB 622 failed to be concurred in, the Committee might want to consider HB 361 in a different light.

Motion\Vote:

Senator Lynch made a substitute motion that HB 361 Be Tabled. The Motion CARRIED by roll call vote with Senators Lynch, Towe, Bartlett, Fritz, Hockett, Wilson, and Forrester voting YES. Senators Harp, Aklestad, Keating, Hertel, and Burnett voted NO.

EXECUTIVE ACTION ON HB 13

Discussion:

Senator Towe explained the amendments (hb001311.asf) to HB 13. He said on page 24 there was added language that said it was the policy of the State not to pay or reimburse stress claims, or the mental-mental, mental-physical, and repetitive injury claims. He explained the language to strike was that between lines 2 and 17 on page 24. Section 1 would be stricken in its entirety because there would be no need of it in the Bill if the amendment was adopted. He noted the amendments would make substantive changes to HB 13. Senator Towe said the argument was that stress claims were only allowed in a narrow decision by the workers' compensation court. He expressed his concern that with a policy statement that said there should be no reimbursement of stress claims, there would be some possibility that it would open the door to further stress claims. He said the other possibility was that the Supreme Court may reverse the decision about one compensable stress claim. He stated the policy statement could give guidance to the Supreme Court. He called attention to the fact that the language added on lines 2 through 17 on page 24 would not appear in the codes, but rather as a statement of intent. He said it meant that it was the intent of the Legislature to not compensate stress claims. He stated if the Legislature did not want these claims to have a benefit, the benefit section should be amended. To add a policy of intent without following up with specific language in the codes is questionable policy. Senator Towe said there may be stress claims that deserve the attention of the workers' compensation system.

Senator Aklestad said he was against the amendment because if language was put in the Bill that made the intent understood it might give direction as to the intent of the Legislature.

Senator Harp told the Committee that there was a policy statement in 1987 with SB 315 that stress claims were not compensable. He said in HB 13 that intent was reaffirmed, as Judge Reardon had overturned the intent of SB 315. He continued that if the definition of stress that was compensable was to be expanded, the effect would be a 27 percent increase in cost to the State Fund to pay for the added stress claims. Senator Harp said

Representative Benedict was trying to send a message to the court what the intent of the Legislature was, even though the intent was made clear in SB 315. He urged the Committee against the amendment.

Senator Lynch spoke in favor of the amendment, as the intent of the Legislature was in the codes. He asked what the purpose was of adding a statement of intent in the middle of the Bill.

Senator Towe said the key part of Judge Reardon's decision was that by the clear language of the statute, a physical condition that arises from emotion, mental stresses, or non-physical stimulus is not compensable. Judge Reardon said this section violated Article 2, Section 4 of the Montana Constitution, because it was contrary to public policy. He said the policy challenge was premised on the argument that all employees, injured or disabled because of their jobs, should be compensated under the Workers' Compensation Act. Senator Towe said he understood the argument of Senator Harp to be that by putting a policy decision in the statutes, the Legislature could impact the Supreme Court decision by saying that this was the policy of the state.

Motion:

Senator Lynch moved HB 13 be amended (hb001311.asf). A roll call vote was taken. The motion FAILED with Senators Hertel, Hockett, Burnett, Harp, Keating, and Aklestad voted NO. Senators Bartlett, Wilson, Lynch, Towe, and Forrester voted YES.

Motion:

Senator Bartlett moved HB 13 Be Amended (hb001310.asf).

Discussion:

Senator Bartlett explained the amendment (hb001310.asf) would strike the provisions pertaining to the board and the executive director serving at the pleasure of the Governor. She said the amendment would retain the status quo, in that the board is appointed by the Governor to fixed terms of four years, and the board hires the executive director, who then serves at the pleasure of the board. She said she did not like the provisions in the Bill because they were a convoluted, administrative, management structure. She stated the lines of authority needed to be clear. She reiterated the amendment would leave the law as it is.

Senator Harp argued against the amendment, saying that Representative Benedict had asked for accountability. He stated that the public was seeing a workers' compensation program that was not working, which was not a reflection on the State Fund itself, or the administration. He said some people thought this provision was an overreaction to those concerns, but the

provision was meant to send a message that there needed to be accountability if there were problems with the board and the executive director. He said the Governor should have the ability to remove these people. Senator Harp stated he understood it was the intertwining of rate settings and politics that had caused the problems. He asked to have either the board or the director serve at the pleasure of the Governor. The amendment would allow for neither to do so.

Senator Towe asked Senator Harp what he would like to do. Senator Harp answered he thought that the Committee could split the amendment.

Senator Lynch said the amendment would give the board a set term.

Senator Towe told Senator Harp there was merit in telling the Governor he was his responsibility to get the job done, and in holding him accountable. He said it did not make sense to hold the Governor accountable when a board provided insulation between the Governor and the executive director. He asked to either remove board and hold the Governor responsible, or retain the board as the accountable party. He said the amendment would put the executive director appointment back under the board. He stated it could be argued that the current situation had not worked very well, but he added that the previous system had not worked very well, either.

Senator Bartlett noted that under executive reorganization, which occurred prior to the adoption of the new constitution policy-making or quasi-judicial boards were established with terms that were set up in a way that a new governor would be able to appoint a majority of the board. Within the first three years the new governor held office, the entire board would have to be reappointed, so a new governor would not be locked into the predecessor's board selection. She said this executive reorganization method had served Montana well. She continued there had not been time to give the administrative structure a fair try; it should be in place longer than four years to see how it worked.

Vote:

The motion to amend HB 13 (hb001310.asf) CARRIED by a roll call vote, with Senators Forrester, Lynch, Bartlett, Towe, Hockett, Fritz, and Wilson voting YES. Senators Keating, Aklestad, Harp, Hertel, and Burnett, voted NO.

Discussion:

Senator Towe explained the amendment (hb001312.asf). He said he was proposing to strike "amass and maintain" on page 33, line 3, which would mandate the State Fund to attain a 25 percent surplus by the year 2003. He said by inserting "in addition to set as a goal", the State Fund would not be mandated to do so.

Motion:

Senator Towe moved HB 13 be amended (hb001312.asf).

Discussion:

Senator Lynch asked for the reasoning of the amendment. Senator Towe answered he suggested the amendment because he thought it would be difficult to maintain a surplus of $36 million, or 25 percent of the annual premium.

Senator Lynch asked Senator Towe if he thought it would be better to suggest a goal, rather than requiring the State Fund to maintain the 25 percent surplus, as this might prevent some sharp increases at the end of the time period. Senator Lynch said rates might have to be raised sharply near the time the goal was required to be met, so the Fund could reach the mandated goal of 25 percent surplus.

Senator Towe said this was proper as a goal, but added that erratic rate making should not be imposed. He said the State Fund could be taken to court and forced to reach the surplus if it was mandated.

Senator Harp asked Senator Towe if he would consider dropping the surplus from 25 percent to 15 percent. He asked if Senator Towe thought the amendment would allow the State Fund flexibility if they did not meet the goal. Senator Towe said he thought his amendment would allow for flexibility so the State Fund could not be charged in court with not following a mandate. He said he thought 25 percent was a good goal, and would rather keep it as a goal than have it mandated at 15 percent.

Senator Lynch suggested that the amendment read "to amass and maintain 15 percent and in addition to set a goal of 25 percent", so the State Fund was forced to start moving in the right direction, and yet was not forced to maintain a surplus of 25 percent.

Senator Towe said this was a good compromise.

Senator Bartlett asked what kind of surplus would meet "a reasonable surplus in accordance with insurance industry standards", language the House had stricken. Jim Murphy, State Fund, told the Committee this would be 30 percent to 40 percent.

Senator Keating expressed that he did not like the structure of the amendment, because it sounded to him as if the goal was to be set, rather than attained, by 2003. Senator Towe said this was true, and the wording should be "to set a goal of 25 percent surplus by July 1, 1993."

Senator Lynch said if the standards were 30 percent - 40 percent, the State Fund was in trouble. He said he did not know how

effective setting a goal would be.

Senator Keating said that the language without the amendment required that the State Fund have the surplus of 25 percent by 2003. He said the amendment would establish the surplus as a goal, but would not require achievement of the goal.

Senator Lynch purposed leaving the language as it was, and if by 2001 the State Fund was not close to meeting the goal, the Legislature could repeal the mandate.

Senator Towe said this was a good way to handle the situation, and said he did not feel strongly about the amendment, though there was a problem with HB 13 in this regard.

Motion:

Senator Towe withdrew his motion to amend (hb001312.asf).

Discussion:

Senator Towe said the amendments (hb001313.asf) would authorize the Legislative Auditor to review rate function. He said this section, Section 10, provided that the Legislative Auditor should be examining the State Fund and reporting to the Legislature. He continued there was an appropriation on page 37 for this function, but it was not a continuing appropriation. His suggestion was the Legislature shall appropriate necessary funds to the Legislative Auditor to perform this function. He noted that without that language added to line 23 on page 33 there would be no additional money appropriated after the current fiscal year.

Senator Lynch said the Legislative Auditor went before the Appropriations Committee every year, and defended the appropriations needed with success. He said this should be a normal appropriations process, and not clutter the Bill.

Senator Towe said this would be a normal appropriations process.

Senator Lynch argued that the amendment would appropriate the necessary fund statutorily. He asked why the special language was needed when the Legislative Auditor would get the money through the normal process anyway.

Senator Aklestad said if the money was not appropriated, the Legislature would be going against the statute. He claimed this requirement to appropriate the money would "put the Legislature in a box".

Senator Towe asked if the Committee thought this should be handled by a regular appropriations bill. Senator Aklestad answered yes. No motion was made on the amendment.

Another amendment (hb001309.asf) was discussed.

Senator Towe said HB 13 on page 34 provided that the State Fund is subject to state laws applying to state agencies, except as for otherwise provided by law, and is exempt from the provisions of the Legislative Finance Act in Title 5, chapter 12. He said the amendment would exempt the State Fund from the budget amendment process. Senator Towe stated the amendment would also exempt the State Fund from the provisions of Title 17, chapter 7, parts 1 through 4. He said this would exclude and exempt the State Fund from the budgeting process of the Legislature.

Motion:

Senator Lynch moved HB 13 be amended (hb001309.asf).

Discussion:

Senator Aklestad clarified that the amendment was dealing with the State Fund.

Senator Towe said the intent of the Bill as he understood it was to exempt the State Fund's budget from the Legislative scrutiny and Legislative micro-management. He said HB 13 would give greater budgetary discretion to the State Fund.

Senator Aklestad asked if Senator Towe was talking about the budget amendment. Senator Towe answered the budget amendment was contained in Title 5, chapter 12, and the provision for submitting the budget to the budget office and the Governor for submission to the Legislature for approval was in Title 17, chapter 7.

Senator Harp asked if this review would still take place. Senator Towe answered this was what was being amended out.

Senator Harp asked if the amendment was working outside of the Montana Administrative Procedures Act (MAPA). Senator Towe answered MAPA was a different subject, but that he thought the amendment was outside of the provisions.

Senator Bartlett said this amendment would make the State Fund budget exempt from the budget process.

Senator Towe said the Legislature would not be able to tell the State Fund how many claims managers it would require. He stated the State Fund would set a budget, then be bound by that budget.

Vote:

The Motion CARRIED UNANIMOUSLY.

Motion\Vote:

Senator Lynch moved HB 13 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

Senator Harp was assigned to carry HB 13 on the Floor.

EXECUTIVE ACTION ON HB 622

Discussion:

The amendments (hb062225.asf) were discussed. Senator Towe told the Committee the amendment dealt with the question of the injured worker not keeping a medical appointment, and thus losing benefits. He said it seemed there might be a confusion on page 15, lines 17 through 21 which states "if after medical examination the injured worker is released to return to work, the worker forfeits the right to any suspended benefits." Senator Towe asked what would happen if a worker, who did not comply with an initial request to see a doctor, went in for such an appointment and was determined to be fit to work. Under HB 622, the benefits were suspended. Senator Towe gave another example where a worker did not show up for an initial medical appointment, but goes some days later, and is found to be unfit to return to work. The worker would still lose benefits, because of the original suspension. Senator Towe said he thought the worker was released from receiving benefits on the day the worker failed to keep the medical appointment. He noted that if a worker does go to an appointment after this and is found to be unfit for work, the worker should not be penalized for that period of time between the missed and the attended appointments.

Senator Harp said the amendment was a "what-if" amendment, and added the language was clear in the Bill. He said he was confused as to what the amendment would do, and would vote against it.

Senator Towe reiterated his explanation of the amendment (hb062225.asf).

Senator Harp expressed that the phrase used was "unreasonably fails to keep a scheduled appointment". He said the person would have to miss an appointment without a valid excuse to have the benefits suspended.

Senator Keating said if a worker missed an appointment and was later found to be able to return to work, those benefits would be suspended. He stated this was clear language that did not need changing.

Senator Towe said the issue was if a worker missed a medical appointment, and is given another notice to come, and makes that appointment a month later whereupon the worker is not able to go back to work, the benefits have been suspended. Senator Towe said during the time the worker was not fit to work, the worker

ROLL CALL

SENATE SELECT COMMITTEE ON Workers' Compensation DATE 04/06/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Towe	X		
Senator Forrester	X		
Senator Bartlett	X		
Senator Wilson	X		
Senator Burnett	X		
Senator Lynch	X		
Senator Aklestad	X		
Senator Fritz	X		
Senator Hockett	X		
Senator Hertel	X		
Senator Harp	X		
Senator Keating	X		

Attach to each day's minutes

SENATE SELECT COMMITTEE REPORT

April 7, 1993

MR. PRESIDENT:
We, your select committee on Worker's Compensation having had under consideration House Bill No. 13 (third reading copy -- blue), respectfully report that House Bill No. 13 be amended as follows and as so amended be concurred in.

Signed: Thomas E. Towe
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Title, page 1, lines 14 through 18.
Following: "CLAIMS;"
Strike: the remainder of line 14 through "GOVERNOR;" on line 18

2. Title, page 2, line 1.
Strike: "2-15-1019,"

3. Title, page 2, line 3.
Strike: "39-71-2317,"

4. Page 24, line 18 through page 26, line 18.
Strike: sections 2 and 3 in their entirety
Renumber: subsequent sections

5. Page 34, line 4.
Following: "12"
Insert: ", and the provisions of Title 17, chapter 7, parts 1 through 4"

6. Page 37, line 17.
Strike: "10"
Insert: "8"

7. Page 37, line 19.
Strike: "12"
Insert: "10"

8. Page 39, lines 21 and 23.
Strike: "9"
Insert: "7"
Strike: "11"
Insert: "9"

9. Page 40, line 5.
Strike: "THROUGH 3"

Amd. Coord. Sen. Harp
Senator Carrying Bill

10. Page 40, line 6.
Strike: "11, AND 16 THROUGH 19"
Insert: "9, and 14 through 17"

11. Page 40, lines 11 and 12.
Strike: "4 THROUGH 10 AND 12 THROUGH 15]"
Insert: "2 through 8 and 10 through 13]"

12. Page 40, line 13.
Strike: "11"
Insert: "9"

-END-

ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation BILL NO. HB 13

DATE 3 4/6/93 TIME 3:34 A.M. (P.M.)

NAME	YES	NO
Senator Hertel		X
Senator Hockett		X
Senator Burnett		X
Senator Harp		X
Senator Fritz		
Senator Bartlett	X	
Senator Wilson	X	
Senator Lynch	X	
Senator Keating		X
Senator Aklestad		X
Senator Towe	X	
Senator Forrester	X	

KELSEY CHAPMAN
SECRETARY

SENATOR TOM TOWE
CHAIR

MOTION: By Sen. Lynch moved to amend (hb001311.asf). Motion Failed.

ROLL CALL VOTE

SENATE SELECT COMMITTEE Workers' Compensation **BILL NO.** HB 13

DATE 4/5/93 **TIME** ~~4~~ 3:44 **A.M. P.M.**

NAME	YES	NO
Senator Forrester	X	
Senator Lynch	X	
Senator Bartlett	X	
Senator Towe	X	
Senator Keating		X
Senator Aklestad		X
Senator Harp		X
Senator Hertel		X
Senator Hockett	X	
Senator Burnett		X
Senator Fritz	X	
Senator Wilson	X	

KELSEY CHAPMAN
SECRETARY

SENATOR TOM TOWE
CHAIR

MOTION: By Sen. Bartlett to amend HB 13 (hb001310.95F)

Amendments to House Bill No. 13
Third Reading Copy

Requested by Sen. Towe
For the Committee on Workers' Compensation

Prepared by Susan B. Fox
April 6, 1993

1. Title, page 1, lines 13 and 14.
Following: "~~FUND;~~"
Strike: the remainder of line 13 through "CLAIMS;" on line 14

2. Title, page 2, line 2.
Strike: "39-71-105,"

3. Page 22, line 21 through page 24, line 17.
Strike: section 1 in its entirety
Renumber: subsequent sections

4. Page 37, line 17.
Strike: "10"
Insert: "9"

5. Page 37, line 19.
Strike: "12"
Insert: "11"

6. Page 39, lines 21 and 24.
Strike: "9"
Insert: "8"
Strike: "11"
Insert: "10"

7. Page 40, line 5.
Strike: "THROUGH 3"
Insert: ", 2"

8. Page 40, line 6.
Strike: "11, AND 16 THROUGH 19"
Insert: "10, and 15 through 18"

9. Page 40, lines 11 and 12.
Strike: "4 THROUGH 10 AND 12 THROUGH 15]"
Insert: "3 through 9 and 11 through 14]"

10. Page 40, line 13.
Strike: "11"
Insert: "10"

Amendments to House Bill No. 13
Third Reading Copy

For the Committee on Workers' Compensation

Prepared by Susan B. Fox
April 6, 1993

1. Title, page 1, lines 14 through 18.
Following: "CLAIMS;"
Strike: the remainder of line 14 through "GOVERNOR;" on line 18

2. Title, page 2, line 1.
Strike: "2-15-1019,"

3. Title, page 2, line 3.
Strike: "39-71-2317,"

4. Page 24, line 18 through page 26, line 18.
Strike: sections 2 and 3 in their entirety
Renumber: subsequent sections

5. Page 34, line 4.
Following: "12"
Insert: ", and the provisions of Title 17, chapter 7, parts 1 through 4"

6. Page 37, line 17.
Strike: "10"
Insert: "8"

7. Page 37, line 19.
Strike: "12"
Insert: "10"

8. Page 39, lines 21 and 23.
Strike: "9"
Insert: "7"
Strike: "11"
Insert: "9"

9. Page 40, line 5.
Strike: "THROUGH 3"

10. Page 40, line 6.
Strike: "11, AND 16 THROUGH 19"
Insert: "9, and 14 through 17"

11. Page 40, lines 11 and 12.
Strike: "4 THROUGH 10 AND 12 THROUGH 15]"
Insert: "2 through 8 and 10 through 13]"

12. Page 40, line 13.
Strike: "11"
Insert: "9"

Amendments to House Bill No. 13
Third Reading Copy

Requested by Senator Towe
For the Committee on Workers' Compensation

Prepared by Susan B. Fox
April 6, 1993

1. Page 33, line 3.
Strike: "to amass and maintain"
Insert: "in addition to set as a goal"

Amendments to House Bill No. 13
Third Reading Copy

Requested by Sen. Towe
For the Committee on Workers' Compensation

Prepared by Susan B. Fox
April 6, 1993

1. Page 33, line 8.
Following: "~~(1)~~"
Insert: "(1)"

2. Page 33, line 19.
Strike: "(1)"
Insert: "(a)"

3. Page 33, line 21.
Strike: "(2)"
Insert: "(b)"

4. Page 33, line 24.
Following: line 23
Insert: "(2) The legislature shall appropriate necessary funds to the legislative auditor to perform this function."

Amendments to House Bill No. 13
Third Reading Copy

Requested by Senator Towe
For the Committee on Workers' Compensation

Prepared by Susan B. Fox
March 31, 1993

1. Page 34, line 4.
Following: "12"
Insert: ", and the provisions of Title 17, chapter 7, parts 1 through 4"